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WELFARE IN MONTANA: A TIME FOR REFORM

A Report to the 51st Legislature

December 1988

Montana Legislative Council

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WELFARE IN MONTANA: A TIME FOR REFORM

A Report to the 51st Legislature

by the

Joint Interim Subcommittee on Welfare

Prepared by
Tom Gomez
Staff Researcher

December 1988

Montana Legislative Council
Room 138
State Capitol
Helena, Montana 59620

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HOUSE JOINT RESOLUTION NO. 53

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF MONTANA'S WELFARE, MEDICAID, AND GENERAL ASSISTANCE SYSTEM; AND REQUIRING A REPORT OF THE FINDINGS AND RECOMMENDATIONS OF THE STUDY TO THE 51ST LEGISLATURE.

WHEREAS, Montana's welfare spending per $1,000 of personal income is currently third highest among the 17 Western states; and

WHEREAS, this expenditure is growing uncontrollably; and

WHEREAS, there is at present no consistency of eligibility or services among counties; and

WHEREAS, Montana's public policy in providing adequate yet cost-effective welfare, Medicaid, and general assistance programs is of great significance to all Montanans; and

WHEREAS, House Bill No. 637 refers a constitutional amendment to the people that, on their approval, would allow the Legislature to determine welfare and human service benefits, but for the 51st Legislature to make those determinations, it is necessary that priorities be examined and information on welfare be available before the 1989 Session begins; and

WHEREAS, the 50th Legislature's current consideration of House Bill No. 581, House Bill No. 325, House Bill No. 600, House Bill No. 538, House Bill No. 2, and House Bill No. 542, all of which pertain to this subject, reflects the need for an in-depth review of the policies and procedures for administering welfare, Medicaid, and general assistance programs.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

(1) That an appropriate interim committee be assigned to study Montana's welfare, Medicaid, and general assistance system.

(2) That the committee, in its study:

(a) analyze existing eligibility and benefits criteria and evaluate alternative methods of controlling costs of services;

(b) evaluate approaches used in other states in providing cost-effective welfare, Medicaid, and general assistance programs; and

(c) evaluate the experience with work programs in Montana and in other states.

(3) That the committee report its findings and recommendations to the 51st Legislature.

ACKNOWLEDGEMENTS

The Joint Interim Subcommittee on Welfare would like to thank the following persons who assisted the Subcommittee in completing the interim study on welfare: Gail Gray, Director, Montana Department of Social and Rehabilitation Services; Scott Seacat, Legislative Auditor; all local county welfare directors, especially Norm Waterman, Director, Lewis and Clark County Department of Human Services; and their respective staffs; Dr. Peter Blouke, Senior Analyst, Office of the Legislative Fiscal Analyst; and Professor Robert Deaton and Terri Loftis, University of Montana, Department of Social Work.

Special thanks to Ellen Garrity, who typed this report, and to Dave Thorsen, Montana Department of Social and Rehabilitation Services, and Kevin Hayes, Montana Legislative Council, who prepared the charts and other graphics appearing in Chapter Two of this report.

SUMMARY OF RECOMMENDATIONS

I.

The Joint Interim Subcommittee on Welfare recommends that the 51st Legislature enact into law these bills:

LC 122 An act to generally revise the laws relating to General Relief Assistance; to establish employability as a classification for determining eligibility for General Relief Assistance; to limit the duration of assistance provided to employable persons; and to require employable recipients to participate in a job search, training, and work program or other special program designed to help recipients overcome problems that impair their employment potential.

LC 123 An act to deny General Relief Assistance for 3 months to a person who voluntarily leaves employment without good cause or who is discharged from employment due to misconduct.

LC 124 An act to extend medical assistance eligibility for persons who lose eligibility for Aid to Families with Dependent Children due to employment.

LC 125 An act to require the Department of Social and Rehabilitation Services to seek an agreement with the United States Secretary of Health and Human Services for the purpose of establishing a demonstration program to test

a policy that would allow recipients of the Aid to Families with Dependent Children-Unemployed Parent Program to work more than 100 hours in a month and still retain eligibility for public assistance.

LC 126 An act to impose stricter sanctions for a General Assistance recipient's refusal to comply with state work requirements; and to provide for termination of assistance if an employable recipient without good cause refuses to participate in a required work program or refuses to register for employment, maintain an active job registration file, or actively pursue and accept available employment.

LC 127 An act mandating that the Department of Social and Rehabilitation Services perform quality assurance reviews to ensure the integrity of the General Relief Assistance Program; and appropriating funds.

LC 128 An act to implement the work provisions of the federal Family Support Act of 1988; to establish a job search, education, training, and work program for recipients of the Aid to Families with Dependent Children Program; and to require mandatory participation of recipients in the new program; to provide sanctions against recipients who fail to participate in the program or to accept suitable employment.

LC 129 An act to revise and continue a job search, training, and work program for employable

recipients of General Relief Assistance; and to clarify the purpose of the program.

LC 130 An act to provide greater financial incentives for General Relief Assistance recipients to obtain employment by allowing a greater earned income disregard, by extending eligibility for General Relief Medical Assistance if eligibility for General Relief Assistance is lost due to employment, and by eliminating the income spendown requirement for General Relief Medical Assistance.

LC 131 An act to require payment of General Relief Assistance in state-assumed counties by vouchers or vendor payments during the initial 30 days of assistance and to allow such payment in all counties at other determinable times.

II.

The Subcommittee unanimously refers without recommendation the following legislation to the 51st Montana Legislature:

LC 132 An act to ensure that parents fulfill the duty to support their children by providing for a presumptive obligation of support in certain legal proceedings; to require consideration of uniform guidelines to establish a minimum support level; to require paternity child support orders to include a provision covering health insurance in certain cases; to provide for child support

collection through automatic income withholding; and to grant the Department of Revenue the authority to charge fees in cases in which an obligor's failure or refusal to pay support requires the department to act.

INTRODUCTION

This is the final report of the Joint Interim Subcommittee on Welfare. The Subcommittee was formed by the 1987 Montana Legislature to conduct an interim study of welfare in Montana, as requested by House Joint Resolution No. 53 (HJR 53).

HJR 53 specifically directed the Subcommittee to: (1) analyze existing eligibility and benefits criteria for public assistance programs; (2) evaluate alternative methods for controlling the costs of welfare services; (3) study approaches used in other states to provide cost-effective welfare, Medicaid, and general assistance programs; (4) evaluate the experience with work programs in Montana and in other states; and (5) report its findings and recommendations to the 51st Legislature.

This report presents the results of the study completed by the Subcommittee on Welfare.

Chapter One provides an overview of the major public assistance programs in Montana.

Chapter Two describes the characteristics of Montana welfare recipients.

Chapter Three outlines options which the Subcommittee examined as a means of reforming the current welfare system.

Chapter Four reports the Subcommittee's activities and final recommendations to the 51st Legislature.

CHAPTER ONE

AN OVERVIEW OF MONTANA WELFARE PROGRAMS

Introduction

The Montana Constitution currently requires that persons who are in need of assistance because of age, infirmities, or misfortune must be provided with necessary programs of public assistance.[1] These programs are established and administered by the counties[2] or by the state in the 12 counties where the state has assumed responsibility for public assistance programs.[3]

Hence, there exists in Montana a broad set of programs for public assistance and related social services. The major programs, which were studied by the Joint Interim Subcommittee on Welfare, are: the Aid to Families with Dependent Children (AFDC) Program, the state General Relief Assistance Program, the state General Relief Medical Assistance Program (State Medical Program), county general relief assistance programs, and county medical programs.

The following is a brief description of each of these programs.

Aid to Families with Dependent Children Program

General description

The Aid to Families with Dependent Children (AFDC) Program was created by Congress under Title IV of the Social Security Act of 1935.[4] The AFDC Program was originally designed to help poor children and orphans,

and it resembled programs known as "mother's allowance" or "widow's pension" programs that existed in most states at the time.[5]

The AFDC Program in Montana was established in 1937.[6] The current program provides cash assistance to needy families with dependent children who have been deprived of parental support or care due to the death, incapacity, or continued absence from the home of a parent.[7] The program also provides optional AFDC payments to two-parent families if the principal wage earner of the family is unemployed.[8]

In general, AFDC recipients are "categorically eligible" to receive benefits under other public assistance programs, such as food stamps and Medicaid.[9] Thus, eligibility for AFDC will affect eligibility for other welfare programs.

Eligibility requirements

To be eligible for AFDC, a family must have a dependent child age 18 or younger who has lost the support or care of a parent by reason of the parent's death, continued absence from the home (including absence as a result of desertion, divorce, or separation of marriage), continued unemployment, or physical or mental incapacity.[10]

In addition, the family must have a condition of need as determined based upon income and resource standards that have been established under state and federal laws and regulations. Under the state resource standard, a family is eligible for AFDC if all available property resources do not exceed $1,000 in equity value, minus certain property that must be

excluded from treatment as an available resource, including:[11]

(1) The family's principal place of residence regardless of value;
(2) One motor vehicle to a maximum of $1,500 in equity value;
(3) Household goods, clothing, and other essential personal effects of limited value that are necessary for basic day-to-day living;
(4) Essential tools of a trade that are necessary for employment; and
(5) Real property that the family is making a good faith effort to sell, but only if the family agrees to use the proceeds from the sale to repay the state for AFDC benefits provided. This exemption applies only for 6 months.

The family must also meet an income standard that consists of: (1) a gross income standard; (2) a need standard (net income standard); and (3) a benefit standard.[12] The gross income standard sets the level of gross monthly income allowed for each size family. The gross income standard is 185% of the state need standard. The need standard specifies the monthly income (after certain work allowances and income disregards are applied) that the state determines is essential to meet basic subsistence needs for a family of a certain size. In general, the standard provides for basic needs such as food, clothing, shelter, and other essentials.[13] The benefit standard represents the maximum amount of assistance that the state will provide to an eligible AFDC family. To qualify for

AFDC, a family's income must not exceed any one of these standards.[14]

Table 1 is a summary of the current AFDC income standard.

Table 1

AFDC: Gross Income, Need, and Benefit Standard by Size of Adult Household

Family size	Gross income standard	Need standard	Benefit standard
1	$474	$256	$212
2	640	346	286
3	803	434	359
4	968	523	433
5	1,132	612	507

Source: Administrative Rules of Montana §46.10.403

AFDC benefits are determined based on the benefit standard minus any countable net income after certain allowances and disregards have been applied.[15]

Administration

The AFDC Program is a joint state and federal program. The program is required in every county of the state and must be uniformly administered throughout Montana.[16]

The Montana Department of Social and Rehabilitation Services administers the AFDC program in the 12 counties with state-assumed welfare services.[17]

The local county department of public welfare is charged with administration of AFDC in the remaining 44 counties of Montana.[18]

Funding

The federal government provides funding for the Montana AFDC Program at a federal matching rate of 70.32% for the current fiscal year. The state pays the remainder of AFDC costs in state-assumed counties. In nonassumed counties, county funds pay 6.7% of the cost for AFDC and the state pays the difference.[19]

In fiscal year 1988, the total amount spent in Montana for AFDC was $38.3 million, including $5.5 million for AFDC to unemployed parents. Since fiscal year 1983, expenditures for AFDC have increased 71%.[20]

Caseload

In fiscal year 1988, the AFDC program had an average monthly caseload of 9,628 recipients, including 1,090 families under the AFDC-Unemployed Parent (AFDC-UP) Program. This represents a 53% growth in the caseload between fiscal years 1983 and 1988.[21]

Medicaid Program

General description

The Medicaid Program was established in Montana in 1967.[22] The program is authorized under sections 53-6-101 through 53-6-150, MCA, and Title XIX of the federal Social Security Act.[23]

The Montana Medicaid Program pays for necessary medical services for persons who are unable to pay for such services themselves.[24] Groups covered under the program include recipients of AFDC and Supplemental Security Income (SSI), and persons considered "categorically needy" or "medically needy."[25]

The Medicaid Program provides to eligible recipients medical assistance for all or part of the costs of necessary medical care and services, including inpatient hospital services, outpatient hospital services, laboratory and x-ray services, skilled nursing home services, physician services, and various "optional Medicaid services" that include dental services, prescribed drugs, eyeglasses, hearing aids, and dentures.[26] A number of services and items are also specifically excluded from payment under the Medicaid program.[27]

Eligibility requirements

To be eligible for Medicaid, a person must be deemed either "categorically needy" or "medically needy". Persons who are categorically needy are aged, blind, disabled, or a member of a family with dependent children and are financially eligible for Medicaid on the basis of income and resources (usually based on the financial eligibility requirements for other federal assistance programs). The categorically needy include all cash recipients of AFDC, certain other AFDC-related groups (individuals who are ineligible for AFDC because of certain other requirements or who do not wish to receive AFDC), most cash recipients of the SSI Program and other SSI-related groups.[28]

The medically needy are persons who would be considered categorically needy but their income exceeds the prescribed limits for the categorically needy (i.e., the financial eligibility requirements of AFDC, SSI, or other federal assistance program).[29] Such persons are eligible for Medicaid if their income is within the medically needy income level. The medically needy income level is determined by the state; however, it is limited to 133 1/3% of the AFDC benefit standard.[30] The following table lists the medically needy income level for various size families.

Table 2

Medically Needy Income Levels

Family size	One month net income limit	Two month net income limit	Three month net income limit
1	$354	$708	$1,062
2	383	766	1,149
3	408	816	1,224
4	433	866	1,299
5	507	1,014	1,521

Source: Administrative Rules of Montana, §46.12.3803

Through a spend-down provision, individuals or families may become eligible for Medicaid even if their income exceeds the medically needy income level. In this instance, the individual or family must meet an incurment requirement -- meaning that the applicant for Medicaid must first incur a certain amount in medical

bills within a certain period of time before becoming eligible for Medicaid.[31]

In addition to income requirements, both the categorically needy and medically needy must meet a resource limitation. In general, categorically needy persons who are recipients of AFDC or who are AFDC-related individuals must meet the AFDC resource standards to be eligible for Medicaid. All other groups who are either categorically needy or medically needy, for the most part, must meet either SSI resource limitations or the medically needy resource standard.[32]

The following table is the resource standard applicable to medically needy persons.

Table 3

Medically Needy Resource Standard

Family type	1988	1989
Individual	$1,900	$2,000
Couple	2,850	3,000
Other	For each additional family member add $100 (regardless of year)	

Source: Administrative Rules of Montana §46.12.3805

Administration

The Medicaid Program is a joint state and federal program. The program is mandatory and in operation in every county of the state. Under Montana law, the

program must be uniformly administered and supervised throughout the counties.[33]

The Montana Department of Social and Rehabilitation Services administers the Medicaid Program in the 12 counties that have opted for state assumption of welfare services.[34] In the remaining 44 nonassumed counties, Medicaid is administered by the local county department of public welfare subject to state regulation.[35]

Funding

The Medicaid Program is funded with state general revenues and federal matching funds. The current federal contribution for Medicaid is 70.32% of program costs.[36]

The total cost for Medicaid in Montana in fiscal year 1988 was $141.5 million, of which $61 million was for nursing home care. Since fiscal year 1983, Medicaid costs have risen 66%.[37]

Caseload

In fiscal year 1988, the Medicaid Program served an average monthly caseload of 26,207 individuals in Montana. This caseload has grown 49% since fiscal year 1983.[38]

State General Relief Assistance

General description

The state General Relief Assistance Program* is a program of public financial assistance to provide basic necessities (food, shelter, utilities, and personal needs) to persons who have need for such assistance.[39] The program exists in the 12 counties that have transferred to the state responsibility for public assistance programs. General relief is administered in these counties by the Montana Department of Social and Rehabilitation Services.[40]

The General Relief Assistance Program is authorized under the provisions of Title 53, Chapter 3, of the Montana Code Annotated.

Eligibility requirements

State General Relief is available to persons who are not eligible for federal public assistance.[41] Any person otherwise qualified who makes his home in Montana with the intent to become a resident is generally eligible for General Relief Assistance if he meets certain income and resource requirements. These requirements provide that a person is eligible for General Assistance if his combined income and resources do not exceed the monthly benefit standard.[42] This benefit standard appears in Table 4.

---

* The state General Relief Assistance Program is also known as the General Assistance or General Relief Program.

Table 4

Monthly Benefit Standard for General Relief Assistance

Family size	Benefit standard
1	$212
2	282
3	354
4	426
5	501
6	570
7	642
8	713
9	785
10 or more	857

Source: Mont. Code Ann. §53-3-205

In considering the income and resources of a person applying for General Assistance, the state must exclude the following:[43]

(1) The first $50 earned each month by each household member;
(2) The person's home, including necessary appurtenant land not exceeding 10 acres;
(3) One motor vehicle that has no more than $1,500 in equity value;
(4) Personal items, clothing, household furniture, appliances, and other essential household items necessary for the operation of the home; and

(5) Tools of a trade that are essential to the current or future employment of a household member.

Benefits for General Assistance are determined based on the benefit standard minus all nonexcludable income and resources.[44]

Funding

The state General Relief Assistance Program is funded by the state and counties. There is no federal funding for the program.

In all counties with a state program, the counties must levy 12 mills annually to finance the program. The proceeds of the mill levy are deposited in a state special revenue fund for the purpose of paying the expenses of the Montana Department of Social and Rehabilitation Services in administering General Relief in the county. The state is obligated to pay any additional cost for General Relief Assistance above 12 mills.[45]

During fiscal year 1988, the total cost of General Relief Assistance in the 12 state-assumed counties was $4.6 million. This cost is 151% above the cost of General Assistance in fiscal year 1983.[46]

Caseload

In fiscal year 1988, the state General Relief Assistance Program served an average of 1,847 recipients per month. This is a 64% increase in the caseload since fiscal year 1983.[47]

State Medical Program

General description

The state General Relief Medical Assistance Program (hereafter referred to as the State Medical Program) is a program of medical assistance for persons ineligible for other programs of assistance including Medicaid.[48]

The State Medical Program provides services necessary to treat a person's "serious medical condition," which is any physical condition that causes a serious health risk to a person or for which treatment is medically necessary, including pregnancy.[49] However, assistance under the program is limited in scope and duration to the services provided under the Medicaid program.[50] In addition, State Medical Program services are limited to covered medical needs not met by services or benefits available from health insurance, veteran's benefits, industrial accident benefits, Medicare, or Medicaid.[51]

Eligibility requirements

In order to qualify for the State Medical Program, a person must have a serious medical condition and must meet the eligibility requirements for the state General Relief Assistance Program, except that a person may qualify for the State Medical Program even though his income exceeds the General Relief income standard. Under this exception, a person is eligible for state medical assistance if he incurs covered medical costs equal to the difference between the General Relief income standard and the monthly income standard that appears in Table 5.

Table 5

Monthly Income Standard for State Medical

Family size	Monthly income standard
1	$ 287
2	433
3	526
4	618
5	714
6	804
7	896
8	988
9	1,081
10	1,173
11	1,194
12	1,215
13	1,236
14	1,256
15	1,277
16 or more	1,298

Source: Mont. Code Ann. §53-3-206

Funding

The State Medical Program is funded the same as the state General Relief Assistance Program.

In fiscal year 1988, the cost of the State Medical Program totaled $4.6 million, which represents a modest growth of 5.3% since fiscal year 1983.[52]

Caseload

No data available.

County General Relief Assistance Programs

General description

The counties are responsible for the provision of general relief to the indigent, dependent poor in those counties where the state has not assumed responsibility for public assistance programs.[53] In these counties, general relief is available only to the extent determined necessary by the local board of county commissioners.[54]

Where available, general relief assistance is administered by the local county department of public welfare under the supervision of the Montana Department of Social and Rehabilitation Services.[55] However, there is no requirement that county general relief must conform with state standards for assistance. Instead, counties are expressly allowed to adopt their own eligibility and benefit standards, and the Montana Department of Social and Rehabilitation Services is prohibited from adopting rules to govern the amounts of general relief to be provided in counties without state-assumed welfare services.[56]

Eligibility requirements

Eligibility requirements for county general relief are not uniform between counties. Rather, eligibility requirements vary in each county although many counties

have adopted eligibility criteria similar to state eligibility standards.[57]

Funding

General relief in counties without state-assumed welfare services is paid from the county poor fund, which is a limited fund derived from a tax on property that may not exceed 13.5 mills.[58]

In fiscal year 1986 (the last time statistics were compiled), actual expenditures for general relief in the 44 nonassumed counties totaled $225,900 or 4.4% of all expenditures statewide for general relief assistance in that particular year.[59]

Caseload

The actual caseload for general relief in nonassumed counties was 248 persons during February 1988.[60]

County Medical Assistance Programs

General description

Counties without state-assumed welfare programs are charged with the responsibility to provide medical assistance to the indigent sick and to other persons in the county who are unable to pay for medical aid and hospitalization themselves.[61] The local county department of public welfare in these counties is responsible for administration of county medical assistance under the supervision of the Montana Department of Social and Rehabilitation Services.[62]

While the state supervises administration of county medical programs, this does not mean that county medical assistance must be provided the same as under the State Medical Program. State law generally grants to counties the authority to determine eligibility and services to be provided under the county medical assistance program.[63]

However, under state law, no person whose income exceeds 300% of the monthly benefit standard for the state General Relief Assistance Program may be eligible for county medical assistance.[64] Moreover, although the county must determine the amount of county medical assistance to be provided, this amount may not exceed the scope and duration of services under the Medicaid Program.[65]

Eligibility requirements

Eligibility requirements for county medical assistance vary between counties. However, many counties have established eligibility policies similar to state standards.[66]

Funding

County medical assistance is paid from the county poor fund.[67] No state funds may be used to pay for county medical assistance.[68]

Expenditures for county medical assistance were $822,574 in fiscal year 1986 (the last year that data was collected). This comprised 20.9% of all expenditures for state and county medical assistance that year.[69]

Caseload

No data available.

NOTES

[1] See Mont. Const. Art. XII, §3(3).

[2] See generally Title 53, chapter 2, Mont. Code Ann. See also Mont. Code Ann. §§53-2-321, 53-3-308, 53-4-202, 53-4-221, 53-6-103, and 53-6-121.

[3] See Title 53, chapter 2, part 8, Mont. Code Ann. The 12 counties with state-assumed welfare programs are: Cascade, Deer Lodge, Flathead, Lake, Lewis and Clark, Lincoln, Mineral, Missoula, Park, Powell, Ravalli, and Silver Bow.

[4] This law is found in 42 U.S.C. §601 et. seq.

[5] White House, Office of Policy Development, Up from Dependency: A New National Public Assistance Strategy, Vol. 1 (Washington, D.C.: U.S. Government Printing Office, 1986), p. 18.

[6] See Ch. 82, Laws of Montana, 1937.

[7] See Mont. Code Ann. §53-4-202.

[8] See Mont. Code Ann. §53-4-231.

[9] See, e.g., 42 U.S.C. §1396 (a)(10), which mandates categorical eligibility under Medicaid for recipients of AFDC.

[10] See Mont. Code Ann. §53-4-201, and Administrative Rules of Montana §§46.10.301 and 46.10.303.

[11] Administrative Rules of Montana §46.10.406.

[12] See Administrative Rules of Montana §§46.10.402 and 46.10.403.

[13] Id.

[14] Id.

[15] Id.

[16] Mont. Code Ann. §53-4-202.

[17] Mont. Code Ann. §§53-2-811 and 53-4-211.

[18] Mont. Code Ann. §53-4-221.

[19] Information provided by Dave Thorsen, Chief, Management Operations Bureau, Montana Department of Social and Rehabilitation Services.

[20] Montana Department of Social and Rehabilitation Services, Statistical Report: State Fiscal Year 1988 (1988), p. 4.

[21] Id.

[22] See Ch. 325, Laws of Montana, 1967.

[23] The federal Medicaid law is contained in 42 U.S.C. §1396 et. seq.

[24] The stated purpose of the Medicaid Program is "to furnish . . . medical assistance on behalf of families with dependent children and of aged, blind, or disabled individuals, whose income and resources are insufficient to meet the costs of necessary medical services" (emphasis added). 42 U.S.C. §1396.

[25] See Mont. Code Ann. §53-6-131 and Administrative Rules of Montana §46.12.101.

[26] See Mont. Code Ann. §53-6-101. See also Administrative Rules of Montana §56.12.501.

[27] See Administrative Rules of Montana, §46.12.502.

[28] See Administrative Rules of Montana §46.12.102 and subchapters 34, 36, 38 and 40.

[29] See Administrative Rules of Montana §46.12.102.

[30] See 42 U.S.C. §1396b(f).

[31] See Administrative Rules of Montana §46.12.3804.

[32] See Administrative Rules of Montana §46.12.3603 and 46.12.3805. It should be noted that, under the Medicaid state plan, the medically needy resource standard is the same as the resource standard for SSI, although this is not evident in state Medicaid regulations.

[33] Mont. Code Ann. §53-6-103.

[34] See Mont. Code Ann. §§53-2-811 and 53-6-111.

[35] See Mont. Code Ann. §§53-6-114 and 53-6-121.

[36] Information provided by Dave Thorsen, Chief, Management Operations Bureau, Montana Department of Social and Rehabilitation Services.

[37] Montana Department of Social and Rehabilitation Services, Statistical Report: State Fiscal Year 1988, pp. 4, 11-12.

[38] Id., at 4.

[39] See Mont. Code Ann. §§53-3-108 and 53-3-109.

[40] See Mont. Code Ann. §§53-2-811 and 53-3-308.

[41] See Mont. Code Ann. §§53-3-108 and 53-3-207.

[42] Mont. Code Ann. §53-3-311 and Administrative Rules of Montana §46.25.728.

[43] Mont. Code Ann. §53-3-205 and Administrative Rules of Montana §§46.25.726 and 46.25.728.

[44] Mont. Code Ann. §53-3-311, and Administrative Rules of Montana §46.25.728.

[45] See Mont. Code Ann. §53-2-813.

[46] Montana Department of Social and Rehabilitation Services, Statistical Report: State Fiscal Year 1988, pp. 4, 20.

[47] Id. at 4.

[48] See Mont. Code Ann. §§53-3-109 and 53-3-207.

[49] Mont. Code Ann. §§53-3-109 and 53-3-310.

[50] Mont. Code Ann. §53-3-310.

[51] Id. See also Administrative Rules of Montana §46.25.752.

[52] Montana Department of Social and Rehabilitation Services, Statistical Report: State Fiscal Year 1988, p. 20.

[53] See Mont. Code Ann. §§53-2-321 and 53-3-308.

[54] See Mont. Code Ann. §§53-2-322 and 53-3-311.

[55] See Mont. Code Ann. §§53-2-305, 53-2-306, and 53-3-308.

[56] See Mont. Code Ann. §§53-3-114 and 53-3-311.

[57] This information is based on a review of County General Assistance Plans.

[58] See Mont. Code Ann. §§53-2-321, 53-2-322, and 53-3-308. It should be noted, however, that some counties pay for welfare services through an all-purpose levy rather than the county poor fund. See Mont. Code Ann. §§7-6-2521 through 7-6-2526.

[59] Office of the Legislative Fiscal Analyst, "Growth of Public Assistance Programs," report by Peter Blouke to the Joint Interim Subcommittee on Welfare (April 1988).

[60] This information is based on the results of the General Relief Assistance Program Information Survey, which is discussed in Chapter Four of this report.

[61] See Mont. Code Ann. §§53-2-321, 53-3-206, and 53-3-308.

[62] See Mont. Code Ann. §§53-2-305, 53-2-306, and 53-3-308.

[63] See Mont. Code Ann. §§53-3-308 and 53-3-310.

[64] Mont. Code Ann. §53-3-206.

[65] Mont. Code Ann. §53-3-310.

[66] This is based on a review of County Medical Assistance Plans.

[67] See Mont. Code Ann. §§53-2-321, 53-2-322, and 53-3-308.

[68] See Mont. Code Ann. §53-3-307.

[69] Data furnished by Peter Blouke, Senior Analyst, Office of the Legislative Fiscal Analyst.

CHAPTER TWO

CHARACTERISTICS OF WELFARE RECIPIENTS

The Joint Interim Subcommittee on Welfare has compiled data on the characteristics of Montana AFDC and General Assistance recipients. This information was collected in order to better understand who receives welfare and why. Some of this data is presented below as follows:

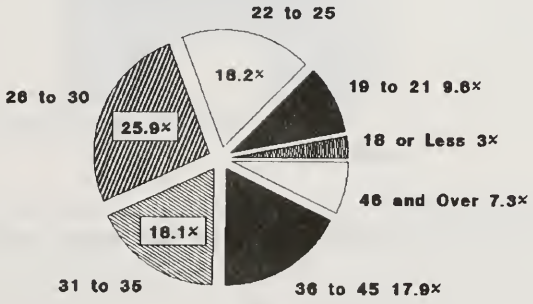
AFDC Recipients

Age

The vast majority of AFDC recipients are young persons age 35 or less. About one-half of all recipients are age 30 and under. One in eight recipients is a teenager. This information is portrayed in Figure 1.

Figure 1

AFDC
Current Age of Payee
(October 1988)



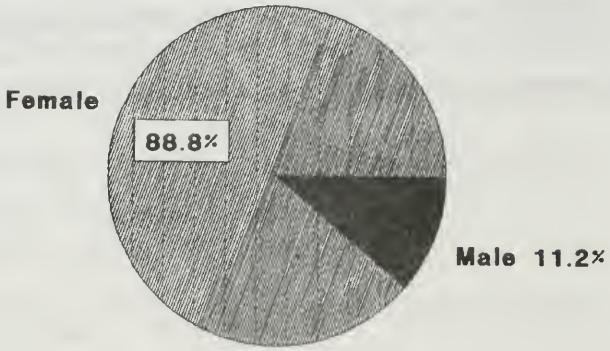
Source: Montana Department of Social and Rehabilitation Services.

Sex

As can be seen in Figure 2, AFDC recipients are overwhelmingly women. Men comprise only 11% of all AFDC recipients and, for the most part, these are men who are the head of an AFDC-UP household.[1]

Figure 2

AFDC
Sex of Payee
(October 1988)



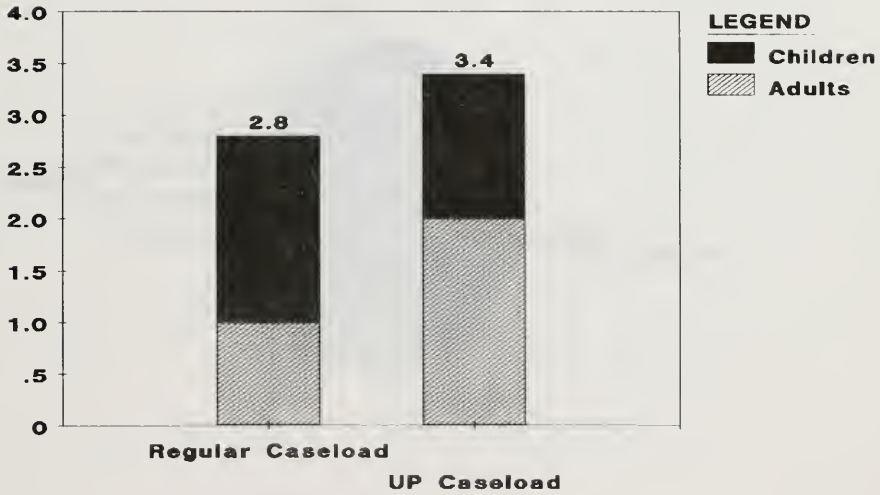
Source: Montana Department of Social and Rehabilitation Services.

Size of family

Figure 3 shows the average size of families receiving AFDC. The average family in a regular AFDC household is a family consisting of a single parent and one or two children. The average AFDC-UP family is one that includes both parents and at least one child.

Figure 3

AFDC
Average Family Sizes
(October 1988)

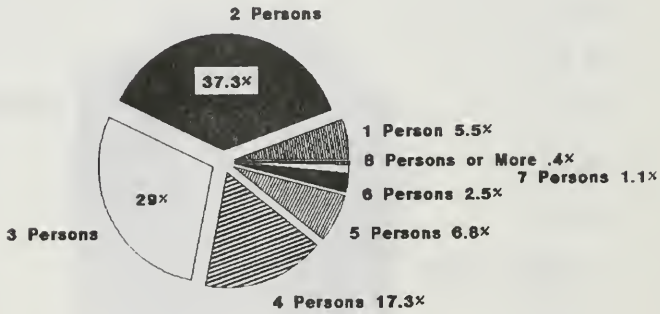


Source: Montana Department of Social and Rehabilitation Services.

Figure 4 provides greater details on the size of AFDC families. As shown in Figure 4, there are few large families that receive AFDC. Most families are two- and three-person households. Fewer than 11% of all families have 5 or more persons in the household.

Figure 4

AFDC
Number of Persons Included in Grant
(October 1988)



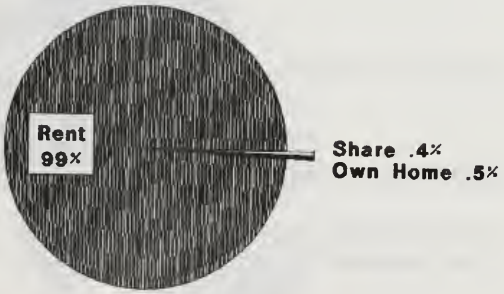
Source: Montana Department of Social and Rehabilitation Services.

Living arrangements

Virtually all recipients of AFDC rent their place of residence. Only one-half of one percent own a home, and fewer than that share the home they live in. This is shown in Figure 5.

Figure 5

AFDC
Living Arrangements
(October 1988)



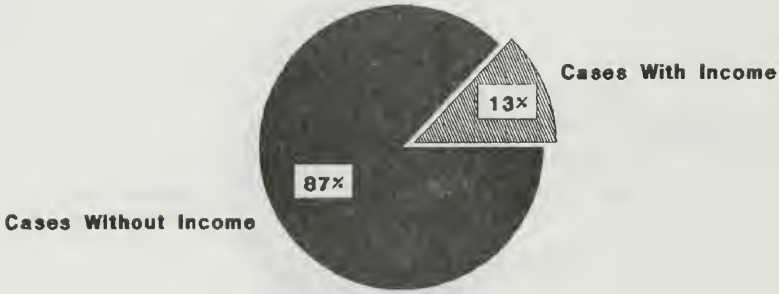
Source: Montana Department of Social and Rehabilitation Services.

Availability of income

Eighty-seven percent of all AFDC recipients have no income, earned or unearned, and thus lack the financial means to support themselves. This information is presented in Figure 6.

Figure 6

AFDC
Cases With and Without Income
(October 1988)



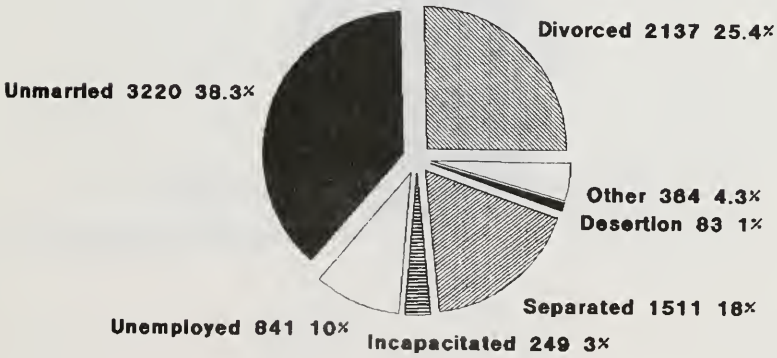
Source: Montana Department of Social and Rehabilitation Services.

Reasons for needing assistance

Figure 7 shows the main reasons that persons need AFDC, according to deprivation factors.[2] As can be seen, more than 82% of all AFDC recipients are in need of assistance because they are unmarried, divorced, separated, or abandoned by their spouse. Ten percent are on AFDC due to the unemployment of the principal wage earner in the family.

Figure 7

AFDC
Reasons For Needing AFDC
(October 1988)



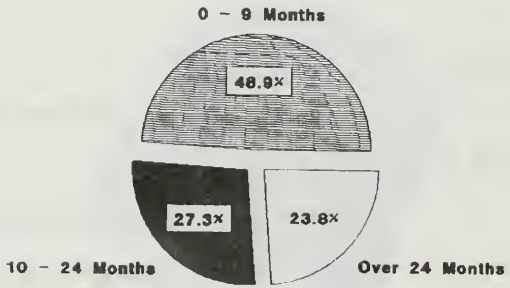
Source: Montana Department of Social and Rehabilitation Services.

Length of time on assistance

Figure 8 displays the length of time recipients stay on AFDC. The data shows that almost one-half of all recipients are on AFDC for 9 months or less, and fewer than one-fourth of all recipients stay on AFDC for longer than 2 years.

Figure 8

AFDC
Length of Stay
(October 1988)



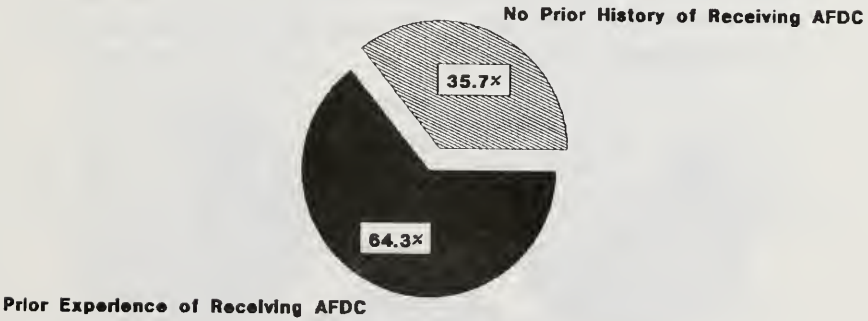
Source: Montana Department of Social and Rehabilitation Services.

Prior history of assistance

In the large majority of cases, recipients of AFDC have a prior, known experience of receiving AFDC. In only about one-third of all cases does the recipient have no prior history of AFDC assistance. This information is portrayed in Figure 9.

Figure 9

AFDC
Prior History of AFDC Assistance
(October 1988)



Source: Montana Department of Social and Rehabilitation Services.

Migration

There is no data on the number of out-of-state residents who have moved to Montana for the purpose of receiving AFDC benefits. But the research indicates there is probably little basis for this concern in regard to AFDC in Montana.[3]

General Assistance Recipients

Caseload distribution

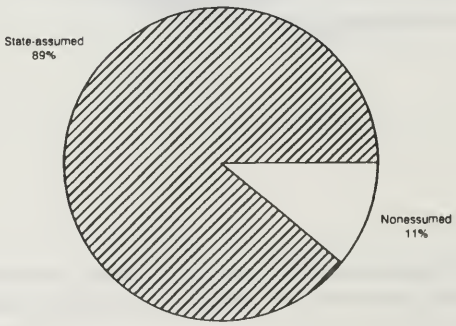
Figure 10 shows the percentage of General Assistance recipients who live in state-assumed welfare counties and in nonassumed counties. As can be seen, 89% of all General Assistance recipients are in the 12 state-assumed counties. The remaining 11% are in the 44 nonassumed counties.

Figure 10

General Assistance

Caseload Distribution

State-Assumed vs. Nonassumed Counties



Source: Montana Legislature, Office of the Legislative Fiscal Analyst and the Montana Legislative Council, General Relief Assistance Program Information Survey, February 1988.

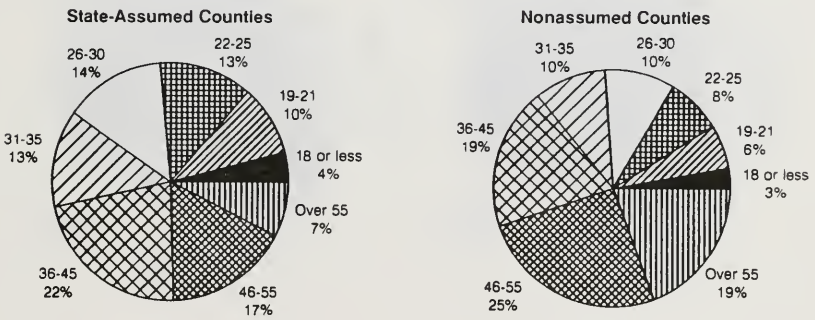
Age

In state-assumed counties, over one-half of all recipients are 35 years of age or younger. Only about one-fourth are age 46 or older. On the other hand, in nonassumed counties, recipients are generally older. Almost one-half are 46 years of age or more, and only about one-third of the recipients are age 35 or younger. This data is provided in Figure 11.

Figure 11

General Assistance

Age of Recipients



Source: Montana Legislature, Office of the Legislative Fiscal Analyst and the Montana Legislative Council, General Relief Assistance Program Information Survey, February 1988.

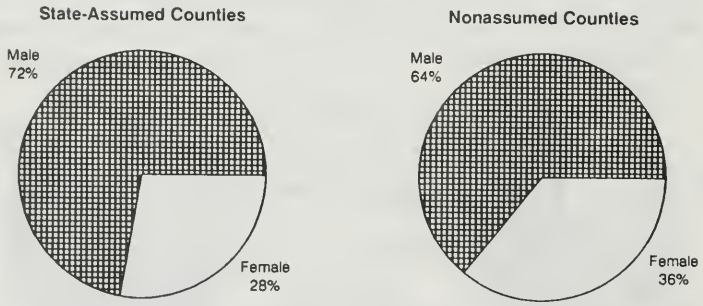
Sex

In both nonassumed and state-assumed counties, the large majority of recipients are men. However, state-assumed counties have a larger percentage of men in the total caseload as compared to nonassumed counties. This difference is shown in Figure 12.

Figure 12

General Assistance

Sex of Recipients



Source: Montana Legislature, Office of the Legislative Fiscal Analyst and the Montana Legislative Council, General Relief Assistance Program Information Survey, February 1988.

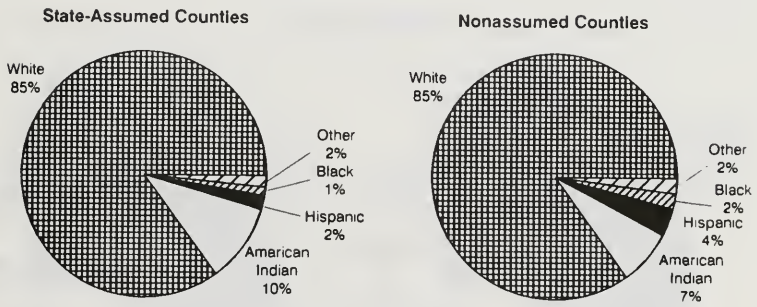
Race or ethnicity

Eight-five percent of all recipients in both state-assumed and nonassumed counties are white Caucasians. The rest are American Indian, Hispanic, Black, or of another race as shown in Figure 13.

Figure 13

General Assistance

Recipients' Race or Ethnic Heritage



Source: Montana Legislature, Office of the Legislative Fiscal Analyst and the Montana Legislative Council, General Relief Assistance Program Information Survey, February 1988.

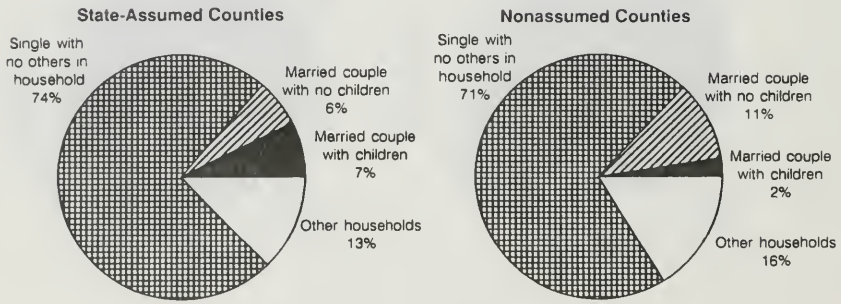
Household status

Figure 14 portrays the household status of General Assistance recipients. As shown in this figure, about three-fourths of all recipients in the counties are single, unmarried persons with no other individuals in the household. Thirteen percent of all recipients are married couples, most of whom have no children.

Figure 14

General Assistance

Household Status



Source: Montana Legislature, Office of the Legislative Fiscal Analyst and the Montana Legislative Council, General Relief Assistance Program Information Survey, February 1988.

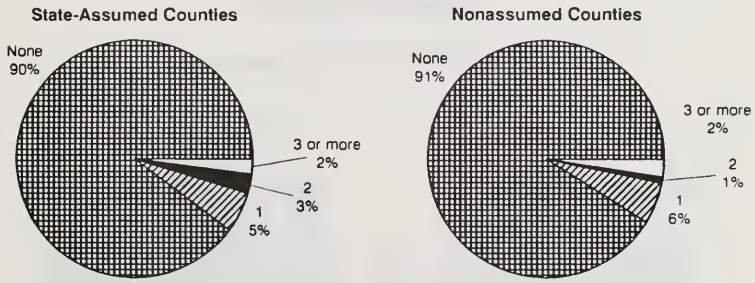
Households with children

In both nonassumed and state-assumed counties, about 90% of all households include no children. Few households in either case have more than one child. This information is reported in Figure 15.

Figure 15

General Assistance

Number of Children in Household



Source: Montana Legislature, Office of the Legislative Fiscal Analyst and the Montana Legislative Council, General Relief Assistance Program Information Survey, February 1988.

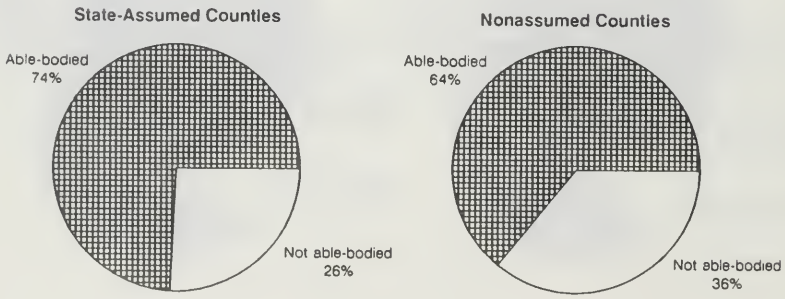
Able-bodied recipients

Figure 16 shows the percentage of General Assistance recipients who are able-bodied. This figure reveals that, in both state-assumed and nonassumed counties, the great majority of recipients are able-bodied, but differences do exist between the counties. In general, state-assumed counties have a significantly larger percentage of able-bodied recipients than do nonassumed counties.

Figure 16

General Assistance

Number of Recipients Who Are Able-Bodied



Source: Montana Legislature, Office of the Legislative Fiscal Analyst and the Montana Legislative Council, General Relief Assistance Program Information Survey, February 1988.

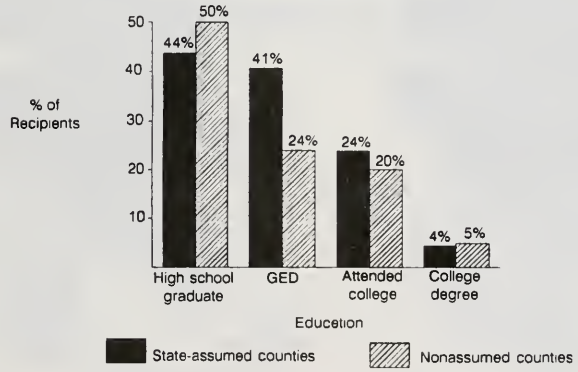
Education

As shown in Figure 17, about one-half of all recipients in state assumed and nonassumed counties are high school graduates. Another 24% to 41% of all recipients have a General Education Development (GED) certificate, with the higher percentage of persons with a GED in the state-assumed counties. Only about 5% of the recipients in either state-assumed or nonassumed counties hold a college degree.

Figure 17

General Assistance

Education of Recipients



Source: Montana Legislature, Office of the Legislative Fiscal Analyst and the Montana Legislative Council, General Relief Assistance Program Information Survey, February 1988.

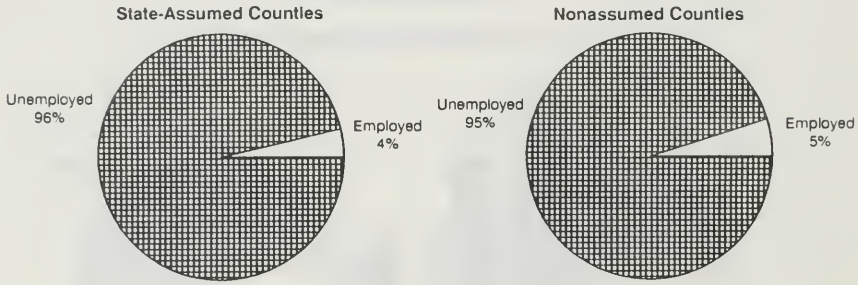
Recipients employed

Figure 18 presents the percentage of General Assistance recipients who are employed. The data shows that very few recipients actually work while they receive General Assistance.

Figure 18

General Assistance

Number of Recipients Currently Employed



Source: Montana Legislature, Office of the Legislative Fiscal Analyst and the Montana Legislative Council, General Relief Assistance Program Information Survey, February 1988.

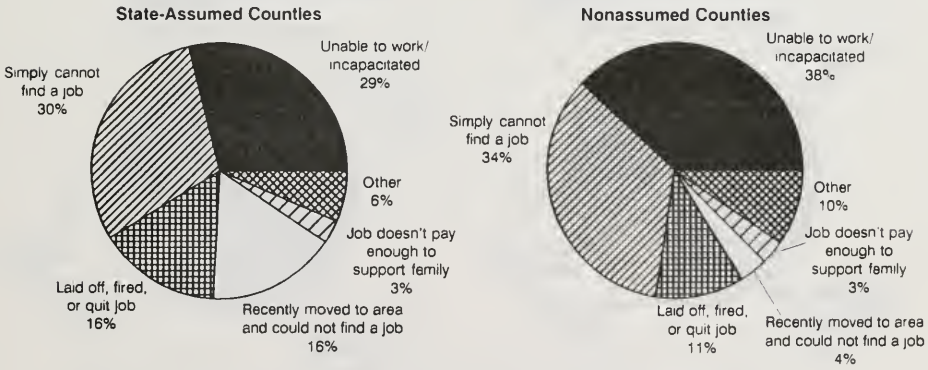
Reasons for needing assistance

Figure 19 shows the reasons why recipients say they have applied for General Assistance. Approximately 30% of all recipients in state-assumed and non-assumed counties indicate that their main reason for needing General Assistance is because they simply cannot find a job. A similar or higher percentage of recipients say they applied for assistance because they are incapacitated or physically unable to work. Between 11% and 16% of all recipients need General Assistance because they have been laid off or fired, or because they quit their last job.

Figure 19

General Assistance

Main Reasons for Needing General Assistance



Source: Montana Legislature, Office of the Legislative Fiscal Analyst and the Montana Legislative Council, General Relief Assistance Program Information Survey, February 1988.

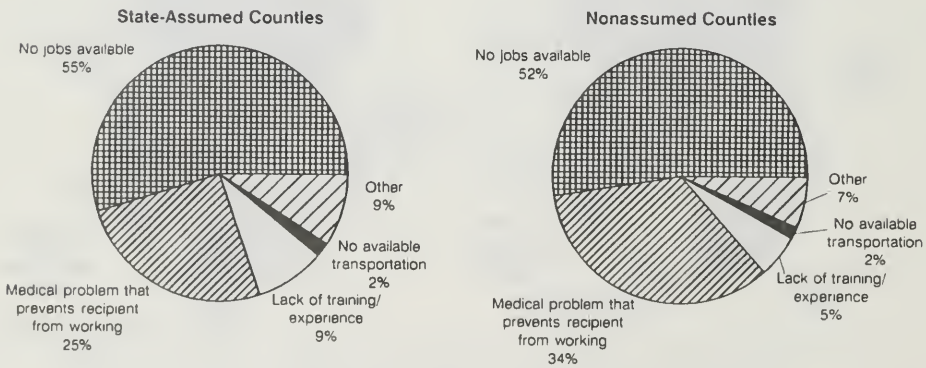
Reason for unemployment

The main reasons why recipients are not currently working is shown in Figure 20. As can be seen, the reason that recipients are not employed is similar to their reason for needing General Assistance. According to more than one-half of all recipients, the main reason they are not working is because there are no jobs available. Twenty-five percent are not employed because they have a medical problem that prevents them from working. Only 5% to 9% of all recipients cite the lack of training or work experience as the reason for their unemployment.

Figure 20

General Assistance

Main Reason Why Recipient Is Not Employed



Source: Montana Legislature, Office of the Legislative Fiscal Analyst and the Montana Legislative Council, General Relief Assistance Program Information Survey, February 1988.

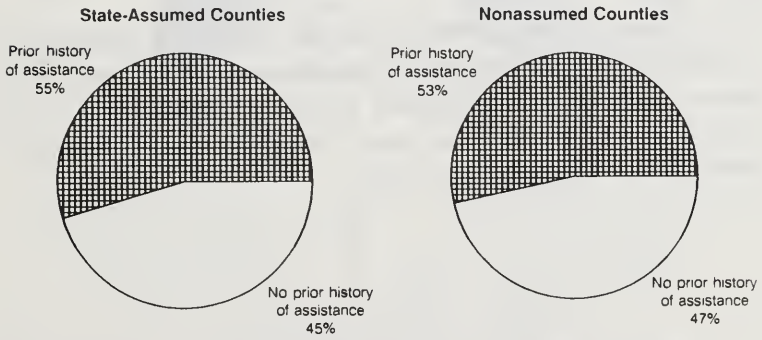
Prior history of assistance

Slightly more than one-half of all recipients have a prior history of receiving public assistance in the county where they are now receiving General Assistance. This information is shown in Figure 21.

Figure 21

General Assistance

Number of Recipients with Prior History of Public Assistance



Source: Montana Legislature, Office of the Legislative Fiscal Analyst and the Montana Legislative Council, General Relief Assistance Program Information Survey, February 1988.

Length of time on assistance

Figure 22 presents data on the length of time that recipients have been on General Assistance. The data shows a difference in the duration of assistance for recipients in nonassumed counties compared to state-assumed counties.

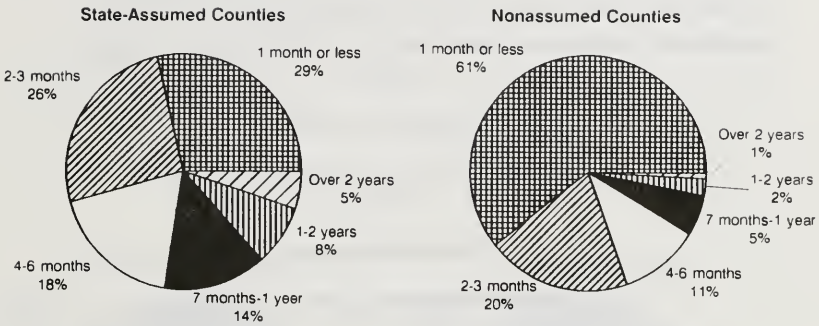
For instance, as shown in Figure 22, less than 20% of all recipients in nonassumed counties stay on General Assistance for longer than 3 months. However, this number is more than double in state-assumed counties, where 45% of all recipients continue to receive General Assistance for more than 3 months.

Also, in nonassumed counties, the vast majority of recipients receive General Assistance for 1 month or less. But in state-assumed counties, fewer than one-third of all recipients are on General Assistance for such a short period of time.

Figure 22

General Assistance

Length of Time on Assistance



Source: Montana Legislature, Office of the Legislative Fiscal Analyst and the Montana Legislative Council, General Relief Assistance Program Information Survey, February 1988.

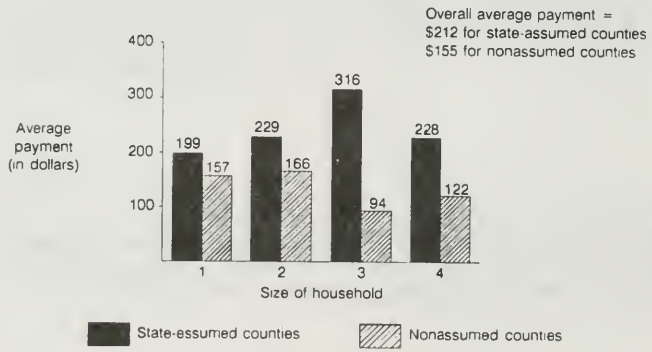
Average monthly payments

Figure 23 features a comparison of the average monthly payments for General Assistance in the counties by size of household. As can be seen, average monthly payments to households in nonassumed counties is substantially less in most cases as compared to the average payments to households in state-assumed counties. Moreover, this difference in average payments increases with the size of the household.

Figure 23

General Assistance

Average Monthly Payment by Size of Household



Source: Montana Legislature, Office of the Legislative Fiscal Analyst and the Montana Legislative Council, General Relief Assistance Program Information Survey, February 1988.

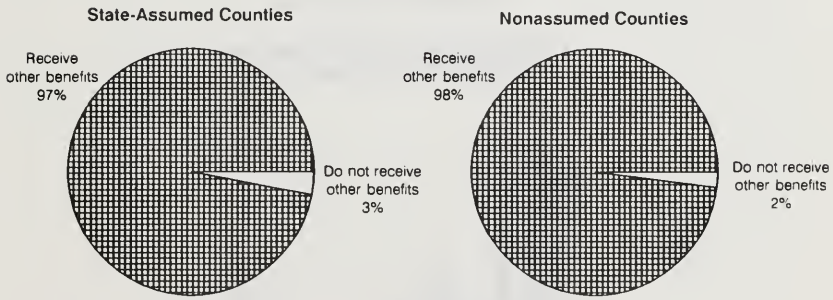
Receipt of other welfare benefits

Almost all General Assistance recipients in the state receive some other welfare benefits in addition to General Assistance. Only 2% to 3% of all recipients receive no other welfare benefits, as shown in Figure 24.

Figure 24

General Assistance

Number of Recipients Who Receive Other Welfare Benefits



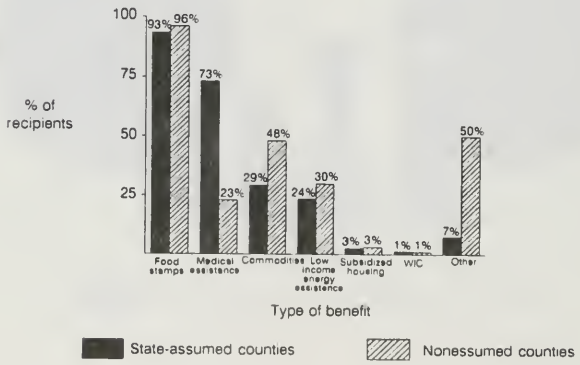
Source: Montana Legislature, Office of the Legislative Fiscal Analyst and the Montana Legislative Council, General Relief Assistance Program Information Survey, February 1988.

Figure 25 shows the type of other welfare benefits received by General Assistance recipients. As can be seen, in both state-assumed and nonassumed counties, almost all recipients receive food stamps as well as General Assistance. However, there are differences between the nonassumed and state-assumed counties in the percent of recipients who receive medical assistance. In state-assumed counties, almost three-fourths of all recipients receive state medical assistance benefits, but fewer than one-fourth of the recipients in nonassumed counties receive this benefit.

Figure 25

General Assistance

Number of Recipients Who Receive Other Welfare Benefits by Type of Benefit



Source: Montana Legislature, Office of the Legislative Fiscal Analyst and the Montana Legislative Council, General Relief Assistance Program Information Survey, February 1988.

Migration

There is a lack of data concerning the number of General Assistance recipients who have migrated from a nonassumed county to a state-assumed county or who have migrated to Montana from another state in order to receive Montana welfare benefits. While some data was collected as part of the General Relief Assistance Program Information Survey, the data is unreliable due to a large nonresponse rate to questions regarding the migration issue. However, there are indications that migration is, in fact, a problem affecting the state General Assistance Program in Montana.[4]

NOTES

[1] This statement is based on the fact that AFDC-UP households, which always include men, comprise 10% of the total AFDC caseload.

[2] Deprivation factors serve as the basis for eligibility under the requirement that an AFDC family must include a needy child who has been deprived of parental support or care by reason of the death, continued absence from the home, physical or mental incapacity, or unemployment of a parent.

[3] Recent research indicates that welfare recipients are more likely to live in states that have higher welfare benefits than in states with lower benefits and that low-income people take welfare policies into consideration when choosing where to live. See, e.g., Paul Peterson and Mark Rom, "The Case for a National Welfare Standard," The Brookings Review, Vol. 6 (Winter 1988), pp. 28-30. However, since Montana's AFDC policies are less generous than in neighboring states, there seems to be no reason for out-of-state residents to migrate to Montana. See Montana Legislature, Minutes of the Joint Interim Subcommittee on Welfare, November 2, 1987.

[4] See discussion of this issue in Minutes of the Joint Interim Subcommittee on Welfare, November 2, 1987, and June 13, 1988. The indications of possible welfare migration include: (1) data on the length of in-state residency of new recipients; (2) statements by county welfare directors at the September 1987 meeting of the Association of County Welfare Directors, where it was said publicly that some nonassumed counties provide bus tickets to would-be recipients of county general relief for transportation to the nearest state-assumed county; and (3) the lack of general assistance programs in neighboring states.

CHAPTER THREE

OPTIONS FOR REFORMING WELFARE IN MONTANA

The Joint Interim Subcommittee on Welfare developed 20 study options for policies to reform the Montana welfare system. These options were based upon the specific interests and concerns of Subcommittee members, as well as staff research into the various study issues. In addition, some options were suggested by county welfare directors and other informed individuals.

In developing these study options, the Subcommittee was guided by the following objectives:[1]

(1) To devise better methods for controlling the costs of public assistance programs.

(2) To reduce the public assistance caseload by finding ways to: (a) enable recipients to become self-sufficient; (b) decrease dependency on public assistance programs; and (c) prevent the need for increased welfare services.

(3) To make the Montana welfare system function more effectively.

(4) To clarify the responsibility of individuals who receive public assistance benefits.

(5) To establish a better definition, if possible, of the role of the state and counties in providing public assistance to needy individuals.

The following is a discussion of the 20 options that were studied by the Joint Interim Subcommittee on Welfare:[2]

OPTION #1

Use employability as a classification of eligibility for General Assistance.

Purpose

To better target assistance to needy individuals; to reduce the costs and caseloads for the General Assistance (GA) Program; to limit eligibility for persons who are capable of supporting themselves; to establish consistent eligibility and workfare policies for the General Assistance Program.

Discussion

This option is intended to establish a constitutional classification to limit the eligibility of employable persons to receive General Assistance. This option, if approved, would represent the third attempt, in recent years, by the Montana Legislature to reduce or eliminate General Assistance to employable, able-bodied persons.

During the 1985 regular session, the Montana Legislature enacted House Bill No. 843 (HB 843).[3] HB 843 eliminated nonmedical General Assistance to able-bodied persons who were under the age of 35 and who had no dependent minor children.[4] The bill also provided that able-bodied persons between the age of 35 and 50 who did not have minor dependent children would be

limited to 3 months of nonmedical General Assistance in a 12-month period.[5] The bill did not contain similar restrictions on the eligibility of persons 50 years of age or older.

In Butte Community Union v. Dave Lewis,[6] the Montana Supreme Court ruled HB 843 unconstitutional. Applying a "middle-tier" standard of review (rather than the rational basis test or strict scrutiny standard), the Supreme Court declared that HB 843 violated Article XII, section 3(3), of the Montana Constitution because:

(1) HB 843 established an eligibility classification based on age that was arbitrary and unreasonable; and

(2) The state's interest in saving money did not outweigh the constitutional interest of people in receiving welfare benefits.[7]

In response to the Butte Community Union decision, the Montana Legislature enacted House Bill No. 33 (HB 33) during a special session in June 1986.[8] HB 33 deleted all references to the unconstitutional age classifications found in HB 843 and amended the law to provide that able-bodied persons without dependent minor children would be eligible for no more than 2 months of nonmedical General Relief Assistance in a 12-month period.[9]

HB 33 was declared unconstitutional by the Montana Supreme Court in a second Butte Community Union decision.[10] In its decision, the Montana Supreme Court held that the eligibility classification under HB 33 violated Article XII, section 3(3), of the Montana

Constitution because it was arbitrary and unreasonable under the "middle-tier" standard of review enunciated in the first case.

In an effort to restore its power to determine welfare policy, the 1987 Montana Legislature enacted House Bill No. 637 (HB 637).[11] HB 637 proposed an amendment to Article XII, section 3, of the Montana Constitution to allow the Legislature greater discretion in providing economic assistance and social and rehabilitative services to those in need.[12] The Secretary of State has designated the proposed amendment as Constitutional Amendment No. 18 (CA-18). CA-18 has been placed on the general election ballot for presentation to Montana voters in November 1988. If CA-18 is approved by the people of Montana, it would require that future welfare legislation be tested under the traditional rational basis test rather than the "middle-tier" standard of review.[13]

Under the rational basis test, the Legislature could establish greater limitations on eligibility for public assistance and could deny welfare to those who are able to work.[14] Also, the Legislature could reasonably place a limit on the amount and types of benefits to be provided under welfare programs.[15]

Thus, this option is intended to satisfy the rational basis test, assuming that CA-18 is approved by the voters. However, this option does not propose eligibility classifications like those under HB 843 or HB 33, since it is doubtful that either bill could pass the rational basis test.[16] Instead, this option proposes a new eligibility classification based on the employability of individuals seeking General Assistance. The proposed classification would be

similar to the eligibility standards proposed in other recent legislation -- House Bill No. 542 (1987) (Bradley, Winslow) (requires employability as a criterion for eligibility under the General Relief Assistance program)[17] and House Bill No. 28 (1986) (Bradley) (revises eligibility criteria to require a determination of whether a person is unemployable, employable, or voluntarily destitute).[18]

As proposed, this option would revise the current eligibility standards for General Assistance so that there would be two classes of persons for purposes of determining eligibility -- the employable and the unemployable. "Unemployable" individuals would be persons considered unable to work or unemployable due to their age or physical condition. Such persons would include the elderly; persons with serious physical, emotional, or mental handicaps which prevent work in any substantial gainful employment; and persons suffering from a permanent illness, injury, or incapacity. "Employable" individuals would be persons who are not "unemployable".

Under this option, unemployable persons would be regarded as "chronically needy" and would be entitled to long-term, unconditional assistance. Employable individuals would be considered "transitionally needy" and would be eligible for time-limited assistance that would be provided only if they participate in a required state work program, which would be designed to help them find employment. However, an employable individual could receive assistance beyond the established time limit if, for example, that person: (1) has a serious barrier to employment and is willing to participate in another program to overcome that employment barrier; (2) suffers from drug or alcohol

dependency and is participating in an approved treatment program; or (3) is the head of a household that includes minor dependent children.

Alternatives

The following are some alternatives that might be considered under this option:

(1) Instead of limiting General Assistance eligibility for employable persons, simply deny all assistance to employable individuals and establish a General Assistance Program for unemployable persons only, like the Washington General Assistance Unemployable (GAU) Program.[19] A big advantage to this alternative is that the state would not have to concern itself with a work program, work incentives, or the problem of able-bodied, employable persons receiving General Assistance.

(2) Provide time-limited General Assistance to employable persons without requiring them to participate in a state work program. In this way, General Assistance would be a straightforward, transitional assistance program like the General Assistance - Noncontinuing Program, which was offered by Washington State until 1981, before it abolished General Assistance for employable persons.[20] The main advantage of this alternative would be the financial savings that would result from eliminating the current General Assistance work program. An added advantage would be the elimination of all the problems

associated with operation of a work program for General Assistance recipients.

(3) In providing exceptions that would allow an employable individual to receive extended assistance, lawmakers might include persons who live in "economically distressed counties".[21] Such exception would seem reasonable in those cases in which an individual resides in an area of high unemployment and has difficulty finding suitable work.

Comment

A number of states currently limit or deny general assistance to employable individuals. Altogether, there are about 10 states that deny General Assistance to employable persons, including Arizona, New Mexico, and Washington.[22] In addition, at least four states provide limited assistance to employable individuals. The eligibility policies of these four states is summarized in Table 6.

Table 6

States that Provide Limited General Assistance to Employable Persons

State	Limitation
Kansas	Provides "transitional assistance" for as little as 1 month in 12 if a person has the ability to engage in employment and is not a member of a family in which a minor or pregnant woman resides.
Minnesota	Furnishes assistance through its General Assistance Work Readiness Program for between 2 months in 24 or 6 months in 12, depending upon qualifications, if a person is employable.
Pennsylvania	Limits General Assistance eligibility to 3 months in 12 if a person is employable and "transitionally needy".
Utah	Provides financial assistance to employable persons for up to 6 months in a 12-month period through the Utah Emergency Work Program.

Source: Joint Interim Subcommittee on Welfare.

OPTION #2

Deny General Assistance eligibility to individuals who voluntarily terminate employment or who are discharged from their job due to misconduct.

Purpose

To establish consistent state policies for the payment of unemployment benefits and general relief assistance; to make eligibility requirements for General Assistance more consistent with other public assistance programs; to clarify that General Assistance will be available only to those persons who have need through no fault of their own; to correct current inadequate policies.

Discussion

According to county welfare directors, there is a problem concerning the availability of General Assistance to individuals who voluntarily terminate employment or who are terminated from employment "with cause" by their employers.

The problem arises because state eligibility standards for General Assistance are based on income and resource considerations alone and do not address the circumstances that result in an individual's need for assistance.[23] As a consequence, if an individual has voluntarily quit his job or has been discharged because of misconduct, such person would qualify for General Assistance if he met the income and resource test for eligibility. However, the individual could not collect unemployment insurance benefits because

state law would disqualify him. State law provides for payment of unemployment insurance only to persons unemployed through no fault of their own.[24]

This option would establish a policy similar to that under the Montana Unemployment Insurance Law. This new policy would be to provide General Assistance only to those individuals who have need due to no fault of their own. The policy would deny General Assistance benefits to an individual if he has left work without good cause attributable to his employment, and would further deny eligibility to an individual if he has been discharged from employment for misconduct connected with the individual's work.

Alternatives

None discussed or presented.

Comment

Under both the Food Stamp and AFDC Programs, a person who voluntarily quits a job may be declared ineligible for assistance under the program. In the Food Stamp Program, a household is ineligible for benefits if the head of the household voluntarily quits a job without good cause within 60 days prior to applying for assistance. Under program regulations, the household would be ineligible for benefits for 90 days starting from the date of the quit. Similar grounds for disqualification exist if the head of the household voluntarily quits a job while participating in the Food Stamp Program.[25]

The AFDC Program also has rules to terminate assistance to persons who voluntarily quit their jobs.

Under these rules, an AFDC recipient who is a mandatory registrant in the Work Incentive (WIN) Program may be denied benefits for 3 months if the recipient has terminated employment without good cause.[26]

In both programs, participation in a labor strike does not constitute good cause for quitting or terminating employment. In fact, persons who participate in a labor strike are generally ineligible for AFDC and food stamps during any month in which they are engaged in a strike.[27] And in recent decisions, the U.S. Supreme Court has upheld the validity of laws prohibiting welfare benefits to strikers.[28]

It should be noted that striking workers are also denied unemployment insurance benefits under Montana law.[29]

OPTION #3

Impose a waiting a period for eligibility to receive General Assistance.

Purpose

To preserve the integrity of the General Assistance Program by allowing county welfare authorities time to verify the eligibility of individuals applying for assistance; to reduce the pressure on county welfare staff resulting from current policies that require prompt eligibility determinations; to discourage "transient" and nonresident individuals from applying for General Assistance; to ensure that individuals have a genuine need for public assistance.

Discussion

Presently, there is no waiting period in obtaining eligibility for General Assistance, although the Legislature attempted to establish a waiting period in 1985.[30] Under current law, county welfare officials must act promptly in processing an application for General Assistance and must make a determination of eligibility within 30 days of the application date. Benefits are paid retroactively to the date of application.[31]

This option would establish a waiting period, such as 30-60 days, for receipt of General Assistance. During the waiting period, no assistance would be provided, and individuals would be required to remain continuously eligible for the entire period.

This continuous eligibility would need to be verified by the county welfare office. At the end of the waiting period, prompt payment of benefits would be made to eligible recipients. Recipients would then be entitled to long-term aid, barring restrictions on the duration of assistance.

Exceptions to the waiting requirement could be established for certain recipients. For example, an exception might be made for individuals who are physically unable to work and who need assistance because they lack income and resources to support themselves.

The waiting period should not be confused with a durational residency requirement, which is unconstitutional.[32] While the waiting period might have the effect of requiring individuals to maintain

residency of a specific duration, it is not a durational residency requirement because the waiting period would be uniformly applied to residents and nonresidents alike.

Alternatives

Some policy alternatives under this option include:

(1) Establish a waiting period that has no fixed amount of time, but that would be designed to allow a reasonable period of time to verify eligibility and to prevent fraud and double payments by two jurisdictions.[33]

(2) During the waiting period or in lieu of such waiting period, promote the Nonresident General Assistance Program, which has been established to provide nonresidents or interstate transients with temporary aid until they can be transported back to their state of origin.[34]

Comment

There is a need for caution in developing a waiting period of eligibility for General Assistance. While a reasonable waiting period might, in theory, be constructed to address potential constitutional problems, it is questionable that such a waiting period would be of any practical value because of procedural requirements for applying such a waiting period.[35] Moreover, any waiting period of fixed duration would

probably be unconstitutional, notwithstanding voter approval of CA-18, because such a waiting period is likely to violate the due process requirements of the U.S. Constitution. This is because the waiting period would not be limited only to such time as may be actually needed to determine eligibility.[36]

Currently, there is only one state that has imposed a waiting period of eligibility for General Assistance. That state is Wisconsin, which established a 60-day requirement in 1986. According to Wisconsin state officials, the waiting period is not expected to survive a court challenge.[37]

OPTION #4

Require individuals to seek work or to participate in employment-related activity as a condition of eligibility for the Aid to Families with Dependent Children (AFDC) program.

Purpose

To decrease dependency on public assistance; to reduce the welfare rolls; to clarify that recipients have an obligation to prepare for or seek employment while receiving welfare; to restore the responsibility of individuals to work in order to support themselves and their families; to increase the employment of AFDC recipients; to promote greater self-reliance among AFDC recipients.

Discussion

This option would establish a mandatory work requirement for recipients of AFDC. Under this option, the state would require that, in return for public assistance, AFDC recipients would have an obligation to accept a job, to search for work, or to prepare themselves for employment if they are capable of working.

This option is based upon the following principles:[38]

(1) The receipt of welfare benefits for most recipients should be a temporary bridge between dependency and self-sufficiency and not a long-term circumstance. Thus, to ensure that individuals make the transition from welfare to work as soon as possible, they should be required to actively search for a job and to participate in state-sponsored activities designed to assist them in obtaining regular employment.

(2) It is the responsibility of individuals to work to support their families. Hence, welfare recipients should be obligated to prepare themselves for work and to obtain employment. To allow otherwise would be to excuse recipients from the kinds of responsibilities and obligations shared by working, taxpaying citizens.

(3) The current welfare system should be restructured so that, instead of being a system of broad entitlements, it would impose an obligation on recipients to seek and accept a job or to participate in employment programs.[39] In the past, welfare has been viewed as an entitlement which all eligible citizens have the right to receive. However, this attitude has changed in recent years to recognize that the government's obligation to help those in need should be balanced by the obligation of recipients to fulfill their family responsibilities and to strive to become more self-sufficient.

By necessity, this option would require establishment of an AFDC work program. In addition, this option would imply mandatory participation in such program, as well as sanctions for nonparticipation.

Alternatives

An obvious alternative under this option would be to provide voluntary work and training opportunities for those AFDC recipients who want such assistance. This alternative would mean establishment of a voluntary work program for AFDC recipients instead of a mandatory program.

Comment

Numerous government commissions and private study groups have recommended that able-bodied, adult welfare recipients be obligated to prepare themselves for work and make an effort to obtain employment. These groups

include the President's White House Domestic Policy Council,[40] the National Governors' Association,[41] New York Governor Mario Cuomo's Task Force on Poverty and Welfare,[42] the Project on the Welfare of Families organized by former Governor Bruce Babbitt of Arizona,[43] the American Public Welfare Association,[44] and the American Enterprise Institute.[45] In addition, a variety of states have established mandatory work obligations for AFDC recipients.[46] Such states include Washington, Illinois, Michigan, Oklahoma, Pennsylvania, and California.[47]

OPTION #5

Eliminate the current economic disincentives that discourage AFDC recipients from seeking work.

Purpose

To encourage welfare recipients to work; to make work more rewarding than welfare; to promote greater individual self-sufficiency and reduce dependency on public assistance.

Discussion

One of the most common criticisms of the AFDC Program is that it discourages recipients from working. Some critics of AFDC even allege that program regulations make work so unprofitable and welfare so attractive that it seduces recipients into a life of dependency, and that the pattern and values of dependency are then transmitted from parents to their children, who may come to see welfare as a normal way

of life.[48]

Much of this criticism arises because of the high implicit tax rate within AFDC that results from the reduction of benefits if a recipient has earned income. This "tax rate" for AFDC is 67% of a recipient's earnings, after certain work-related allowances (which may be less than actual work expenses) and a "30 and 1/3" earned income disregard are applied.

The "30 and 1/3" earned income disregard is a "work incentive" that allows an AFDC recipient to keep the first $30 of earned income each month plus one-third of the remainder after work-related allowances are included in calculating a recipient's available income. The full 30 and 1/3 disregard is available for only 4 months, and after that, a $30 disregard is allowed but only for 8 months.[49]

The implicit 67% tax rate on an AFDC recipient's earnings effectively exists because the government reduces the amount of a recipient's AFDC benefits dollar-for-dollar based on the two-thirds of the recipient's income that remains after the "30 and 1/3" income disregard has been applied.[50]

The implicit tax rate within AFDC is much higher in certain circumstances. For example, the tax rate could be 100% if the recipient's earnings, after work allowances and disregards, results in countable income that exceeds the AFDC benefit standard. This is because, in this situation, the recipient would become ineligible for AFDC and would lose all benefits. In addition, the implicit tax is aggravated by the implicit taxes in other assistance programs, like food stamps which most AFDC recipients qualify for.

Moreover, there is a real tax which will be incurred in the form of Social Security and income taxes that must be paid on earned income.[51]

However, the criticism regarding AFDC work disincentives goes beyond program work rules that seem to prevent recipients from working. The criticism also extends to the fact that AFDC recipients may actually be left financially worse off if they choose to work rather than receive welfare. The problem is that AFDC recipients typically are enrolled in other public assistance programs, such as the Food Stamp Program and Medicaid. And, when the benefits of all programs are considered as a whole, public assistance may provide more usable, tax-free income than wages from low-paying jobs of the kind many recipients are forced to accept.[52]

Alternatives

Some alternatives under this option are:

(1) Eliminate all regulations and practices that penalize or discourage work. This could include, for example, the elimination of current welfare regulations[53] that prohibit AFDC unemployed recipients from working more than 100 hours in a month.[54]

(2) Extend Medicaid eligibility from 9 months to 15 months for persons who lose eligibility for AFDC due to employment. Presently, in Montana, AFDC families who lose AFDC eligibility due to work are allowed extended Medicaid eligibility for

up to 9 months. Federal law would permit the state to extend Medicaid for another 6 months with full federal financial participation in the state program.[55] Conceivably, extension of Medicaid could provide an incentive for AFDC recipients to work. According to available research, the main AFDC disincentive is not so much the "tax" that earnings place on AFDC recipients, but the fear of losing eligibility for Medicaid which is linked to AFDC eligibility.[56]

(3) Raise the AFDC need standard and apply a ratable reduction in order to allow AFDC recipients to work and maintain eligibility for public assistance programs. Raising the need standard in this way would not increase the maximum benefit level of the AFDC grant. However, it would allow a family that has a low income to work more and still be eligible for AFDC and Medicaid. This alternative might address the problem of public assistance being, itself, a disincentive to employment.[57]

(4) Provide a state-funded benefit to individuals who lose the 30 and 1/3 income disregard in order to encourage recipients to seek and retain employment. Or, request a waiver of federal regulations to allow extension of the 30 and 1/3 income disregard for a longer period of time.[58]

(5) Make certain transitional services, such as child care, available to working AFDC recipients.[59]

Comment

Not available.

OPTION #6

Enact stricter child support laws as a means of reducing the need for AFDC.

Purpose

To reduce welfare expenditures; to prevent the need for public assistance; to impose an obligation on parents to financially support their children; to increase the adequacy and equity of child support awards.

Discussion

Current state laws seem inadequate to assure that all women with children will receive a proper award of child support as part of a court order providing for the dissolution of their marriage. While there are state laws addressing the issue of child support, the laws do not require the courts to award child support, or to presume the obligation of support, in every instance in which the noncustodial father has the ability to pay such support.[60] And, although the Montana Supreme Court recently adopted guidelines for determining child support obligations, such guidelines

are expressly not binding on judges or any other officials who have the power to determine child support awards within the state.[61]

It is, however, difficult to gauge the extent to which the current system is failing to provide appropriate child support in Montana. The state does not maintain centralized data concerning the award of child support by the courts. But, if federal statistics hold true for the state, there is reason for state lawmakers to be concerned.

According to a recent U.S. government survey, only about one-half of all women potentially eligible for child support awards have a court order or agreement to receive such support. And, of those obtaining awards, one-half receive only partial payment of child support or get no payment at all.[62] Presumably, the taxpayers, via AFDC, are shouldering the responsibility for those women and children who are receiving inadequate support from noncustodial fathers.

Indeed, in Montana, the major reason that women have need for AFDC is because they are unmarried, divorced, or separated and have insufficient income to support themselves and their dependent children. Such persons constitute roughly 80% of the current Montana AFDC caseload.[63]

There are several things that could be done to strengthen current child support laws under the proposed option. First, the Legislature could establish a presumptive child support obligation that would apply in all proceedings for the dissolution of marriage in the state. Second, state lawmakers could require payment of an assured child support amount

based on a percentage of the noncustodial father's income and assets. Finally, the Legislature could require immediate income withholding of child support payments, whereby child support would be withheld automatically from a noncustodial father's paycheck, just like payroll and income taxes, in order to avoid delinquencies in the payment of child support.

Alternatives

One alternative under this option would be to increase traditional child support collections and to improve the existing child support enforcement system. Examples of ways to do this are described in a report recently published by the National Conference of State Legislatures.[64]

Comment

Wisconsin recently enacted legislation which establishes the Wisconsin Child Support Assurance System.[65] The system was designed to address the inadequacies of the traditional child support enforcement system and to foster the self-sufficiency and independence of AFDC recipients.

The Wisconsin system includes the following key components:[66]

(1) A simple formula to determine the amount of the child support award. The formula requires the noncustodial parent to pay child support in an amount ranging from 17% of income and assets for one child up to 34% for five children or more. As of August 1987, the courts in Wisconsin have

been required to use this formula in determining child support unless, by a clear preponderance of evidence, application of the formula would be unfair.

(2) Collection of child support through immediate income withholding. This procedure allows the withholding of child support payments from the noncustodial parent's paycheck on a continuing basis, beginning at the onset of the child support order instead of waiting for payments to become past due.

(3) A minimum child support level, called the assured child support level. This support level is currently set at $3,000 per year for one child, with increases for each additional child, reaching to $5,653 per year for six children or more.

(4) The payment of a child support supplement. This supplement is a public subsidy that is paid whenever necessary to be sure that children receive the assured child support level.

(5) A work expense offset. This offset is provided as a payment to the custodial parent, usually the mother, based on hours worked, to defray the costs associated with employment. The offset is equal to $1 for each hour of employment for a parent who has one

child, and $1.75 per hour if the parent has two or more children.

It should be noted that a recent evaluation of the Wisconsin Child Support Assurance System found that "strict enforcement of mandatory child support laws reduced AFDC payments by 40%."[67]

OPTION #7

Establish a state work program for AFDC recipients.

Purpose

To reduce the AFDC caseload; to decrease welfare dependency; to enable recipients to obtain employment.

Discussion

This option would provide for the establishment of a Montana AFDC work program. The program could be established on a pilot or experimental basis. In addition, the program could be designed as either a voluntary or mandatory program, subject to federal approval.

The program would, however, be based on one or more of the current federal AFDC work program options. These options include:[68]

(1) Work Incentive (WIN) Demonstration Program. Under current federal law, any state may elect to operate a WIN Demonstration Program as an alternative to the regular WIN Program.[69] The WIN

Demonstration Program allows states to experiment with programs designed to provide AFDC recipients experience and training to help them obtain employment. Through such programs, states can offer an array of services to assist AFDC recipients in obtaining employment in the regular economy. Such services include, but are not limited to, job training, job search, subsidized employment, and education.

(2) Community Work Experience Program (CWEP). States may establish a mandatory work program for recipients of AFDC, which is called the Community Work Experience Program (CWEP).[70] Under this program, AFDC recipients may be required to work off their welfare grant by performing unpaid work in specifically created public or private nonprofit jobs. The purpose of the program is to provide work experience and training for recipients so as to improve their employability, thereby enabling them to enter regular employment.

(3) Employment Search Program. States may require both applicants and recipients of AFDC to participate in an approved Employment Search Program as a condition of their eligibility for AFDC.[71] Under such program, individuals may be required to participate in job search activities for up to 8 weeks, beginning at the time of application for AFDC and for up to 8

weeks thereafter in any 12-month period. Program activities may include group job search, job development, work readiness, job referrals, and other activities.

(4) Grant Diversion/Work Supplementation Program. States may establish a Grant Diversion or Work Supplementation Program as part of their AFDC program.[72] Under such program, states may use a recipient's AFDC grant to create and subsidize work as an alternative to providing public assistance. Subsidized jobs can be in either the public or private sectors. However, acceptance of these jobs must be purely voluntary.

Currently, Montana has implemented none of the federal work program options.[73] However, there are some proposals for the establishment of such programs. One proposal developed by the Region III Corrective Action Panel of the Montana Department of Social and Rehabilitation Services would establish a statewide program that would target AFDC/food stamp combination households with children 2 years of age and older. The proposed program would be mandatory for targeted groups. The program would also have a strong component for supportive services.[74]

Another proposal is for establishment of a comprehensive welfare-to-work program for AFDC recipients. The proposal, which is offered by the operators of the Montana Displaced Homemaker Program, recommends a limited performance-based program that would be mandatory for new enrollees of AFDC and voluntary for all other recipients. In addition, the

program would provide grant diversion for on-the-job training, 2- to 4-year long-term training through the state vo-tech centers, work experience, and job search. The program also would provide single point-of-entry and tracking of participants until they have completed the program.[75]

Alternatives

None discussed or presented.

Comment

Research conducted in the past several years indicates that AFDC work programs can increase the employment of welfare recipients and reduce the costs of welfare. However, the results of such research do not support the extreme claims of many proponents.[76]

Generally, the research shows that work programs lead to modest increases in employment for welfare recipients; however, employment gains are oftentimes insufficient to move recipients off welfare. Thus, the research indicates that work programs will not bring about massive reductions in the welfare rolls. Nevertheless, it is found that the programs do cut welfare expenditures and that the savings are usually large enough to justify program costs.[77]

OPTION #8

Direct that the Montana Job Training Partnership Act (JTPA) program be used to reduce the welfare rolls.

Purpose

To cut welfare costs; to reduce the public assistance caseloads; to increase the employment potential of welfare recipients; to provide greater alternatives to welfare; to make use of available government resources in providing employment and training for welfare recipients; to coordinate state job training and welfare policies.

Discussion

The Montana Job Training Partnership Act (JTPA) program is the state's primary employment and training program. JTPA is a 100% federally funded program administered by the Montana Department of Labor and Industry.[78] Funding for the program totals about $11 to $12 million annually.[79]

Federal law provides that the purpose of JTPA is "to establish programs to prepare youth and unskilled adults for entry into the labor force and to afford job training to those economically disadvantaged individuals and other individuals facing serious barriers to employment, who are in special need of such training to obtain productive employment."[80]

In recent years, there has been considerable interest in using JTPA to target welfare recipients for job-training assistance in the hope of reducing the welfare rolls. Such interest is reflected in legislation introduced during the 1985 and 1987 sessions of the Montana Legislature, including House Joint Resolution No. 54 (1985) (Winslow) (requests an interim study to examine how the state Department of Labor and Industry can target public assistance

recipients for job training through JTPA, the Work Incentive (WIN) Program, and other programs);[81] House Joint Resolution No. 51 (1987) (Winslow) (urges the development of statewide goals for JTPA which will give the highest priority to training and job placement for low-income residents and chronically unemployed persons);[82] and House Bill No. 907 (1987) (Cobb) (provides enabling legislation for JTPA, requiring a program performance standard that includes a measure of the extent to which JTPA increases the employment and earnings of participants and decreases the number of individuals receiving welfare).[83]

Welfare organizations also have exhibited an interest in using JTPA to provide training for welfare recipients and to reduce the public assistance caseloads. For example, organizations such as the Butte Community Union and the Montana Low Income Coalition have argued that the way to cut state welfare costs is by reducing the GA rolls through the placement of GA recipients in employment and training programs, utilizing available JTPA funds. These organizations have pointed out that only a small number of GA recipients are served under the JTPA program.[84]

For instance, they note that in FY 86, only 6% of the 3,106 adults enrolled in the state Title II-A JTPA program were GA recipients. Since participation in the program is limited to economically disadvantaged persons, GA recipients are nearly always eligible for training under the program. Hence, it is asked, "Why doesn't JTPA serve more GA recipients?"[85]

The question raised is important because welfare groups contend that GA recipients are the "most in need" within the meaning of the law which requires the

state JTPA program to "provide employment and training opportunities to those who can benefit from, and who are most in need of, such opportunities" (emphasis added).[86] These organizations say that GA recipients are not only the "most in need", but also would be the "neediest of the needy" if the Legislature imposes limitations on eligibility for General Assistance. Welfare groups ask that welfare recipients be given necessary employment and training through JTPA as a means of providing them greater opportunities for employment and self-sufficiency.[87]

Alternatives

Some of the specific alternatives available under this option are:[88]

(1) Require that JTPA serve cash welfare recipients as a priority, target group;

(2) Mandate performance standards consistent with 29 U.S.C. section 1516, to determine the extent to which JTPA: (a) has increased the employment and earnings of welfare recipients; or (b) has reduced the number of individuals receiving cash welfare payments;

(3) Coordinate JTPA with state welfare programs to provide comprehensive services to assist welfare recipients;

(4) Make the state JTPA job-training plan subject to legislative review to ensure

that welfare recipients obtain necessary job training under the program;

(5) Impose a cap, more restrictive than the 15% federal limitation, on the amount of money that can be used for administrative purposes, in order to make more funds available for training and support services.

Comment

Currently, there are no specific ways for the Legislature to direct a decrease in the welfare caseloads by requiring JTPA to serve welfare recipients. Legislative involvement in the Montana JTPA program is presently limited mostly to oversight through the budget process and to individual membership on the state Job Training Coordinating Council and the local Private Industry Councils.

However, the Legislature could enact enabling legislation to establish policies to ensure a reduction of the welfare rolls through JTPA. The federal law expressly allows states to enact such legislation to govern the operation and performance of JTPA programs, provided that the legislation is consistent with provisions of the Congressional act.[89] Indeed, a number of states have enacted enabling legislation for administration of JTPA programs in their states.[90] In some cases, states have passed legislation that specifically coordinates state welfare and JTPA job training policies. Such states include California, Massachusetts, Minnesota, and Pennsylvania.[91]

OPTION #9

Redesign the General Assistance (GA) Project Work Program to provide total work-oriented job assistance to employable individuals on a time-limited basis.

Purpose

To prevent welfare dependency; to reduce the welfare rolls; to assist recipients in obtaining regular employment; to correct current program deficiencies.

Discussion

This option is the direct result of a legislative audit that was requested by the Joint Interim Subcommittee on Welfare. The audit, which was performed by the Office of the Legislative Auditor, revealed that the GA Project Work Program is not achieving the purpose for which it was intended. The audit showed that:[92]

(1) The Project Work Program does not place GA recipients in permanent employment at a livable wage with at least minimum health benefits;

(2) The program only moderately increases the percentage of General Assistance clients who obtain recorded employment;

(3) The Project Work Program does not significantly reduce the General Assistance caseload; and

(4) Overall, the program does not result in GA cost savings when compared to the costs of administering the program.

This option is also based on findings that the Project Work Program is not a total work-oriented program and, in some instances, the program has been redefined at the county level to fulfill goals that must be questioned given the legislative intent of the program.[93]

Thus, this option would provide for a revitalized work program for General Assistance recipients. The program would be a "no nonsense", time-limited, total work-oriented program designed to help recipients obtain regular, unsubsidized employment. The program would be especially designed to provide recipients employment within 6 months of enrolling in the program, assuming that a similar limit is established on the duration of assistance available to employable individuals.

The program would be planned with the specific characteristics and needs of the Montana General Assistance population in mind. Administration would be based on a "triage concept" in which the readily employable, the potentially employable, the functionally unemployable, and those in between would be identified and provided services based on an initial assessment of their prospects for employment. The concept involves a rehabilitative/diagnosis-related approach for providing assistance.[94]

As reconceived, the program might include the following main features: (1) a mandatory participation

requirement, with no exemptions, for all employable individuals; (2) a 40-hour per week performance requirement; (3) a combination of employment activities that would include community work experience as a key component (not county workfare); (4) assignment to program activities based upon assessment, testing, and an employability plan; (5) intensive job search activity and quick placements for readily employable individuals; (6) job training and job skills development for those who are potentially employable but who lack skills to get a job; (7) program components, including counseling, therapy, and rehabilitation, designed to address serious barriers to employment; (8) the expectation that individuals must obtain employment at the end of the program; (9) denial of General Assistance benefits for failure or refusal to participate in program activities; and (10) follow-up and program monitoring.

It might be appropriate, in some cases, to provide supported work or grant-subsidized employment for recipients. However, this would require special agreements with private employers, and the program is likely to result in "creaming" (i.e., with services being provided to only those most likely to succeed). Furthermore, such services probably cannot be provided under a time-limited program structure.

Alternatives

Some alternatives under this option include:

(1) Abolish the GA Project Work Program, thereby saving $1.4 million in annual program costs.[95]

(2) Establish the GA work program as part of a comprehensive work program in conjunction with the AFDC and Food Stamp Programs.[96]

Comment

Not available.

OPTION #10

Impose stricter penalties for a General Assistance recipient's refusal to accept suitable employment or to participate in mandatory work programs.

Purpose

To sanction recipients who refuse to work; to ensure compliance with GA work program requirements; to develop more consistent penalties for a welfare recipient's failure or refusal to fulfill work obligations.

Discussion

Under current law, recipients of General Assistance may be penalized one-fourth of their next monthly benefit amount if they fail or refuse to comply with state work requirements.[97] These requirements provide that, unless exempted, a recipient must: (1) register for employment and accept available work within his or her capability;[98] (2) participate in a structured job search and training program (Project Work); and (3) perform work as assigned under a county workfare program.[99]

Several county welfare directors have expressed a concern that the current sanctions are inadequate to ensure compliance with state work requirements. The county directors point out that, in their counties, there are many instances of a recipient's refusal to participate in work programs or to accept an offer of employment. County directors also state that there are significant numbers of recipients who exhibit patterns of refusal to comply with work requirements and who still are permitted some eligibility for General Assistance.[100]

The available data supports the view of county directors. For example, statistics gathered during a recent 3-month period in Cascade County show 129 recorded instances in which General Assistance recipients were sanctioned for failure or refusal to comply with state work requirements. Thirty-five of the recipients penalized during the period were individuals who were sanctioned two or more times.[101]

According to county directors, the evidence suggests that the one-fourth benefit penalty is

inadequate because it does not deter recipients from refusing to comply with work requirements. County directors say what is needed are stricter penalties, especially for persons who have chronic refusals.[102]

Another concern of county welfare directors is that the one-fourth benefit penalty is inconsistent with sanctions imposed under other welfare programs. The directors note, for example, that under the Food Stamp Program a recipient may be terminated from assistance for 2 months for refusing without good cause to participate in a required employment program or for refusing to accept an offer of employment. It is also pointed out that a food stamp recipient may lose up to 3 months of assistance for voluntarily terminating employment, while no similar penalty exists under the GA program.[103]

The difference is particularly relevant because, in many instances, a recipient of General Assistance is also a recipient of food stamps. Thus, when sanctions are imposed against a person who is a recipient of both programs, the sanctions are not the same. The Food Stamp Program terminates assistance, while the GA Program continues assistance albeit with a one-fourth reduction in benefits.

The one-fourth benefit reduction also appears inconsistent with sanctions imposed under the AFDC-WIN Program. Under WIN, the failure or refusal of a recipient to accept a job or to participate in the program will result in the loss of AFDC benefits for 3 months for the first incident of noncompliance and a 6-month suspension of benefits for any subsequent incident.[104]

Therefore, this option would provide for stricter sanctions if a General Assistance recipient fails or refuses to comply with state work requirements. Such sanctions would be similar to sanctions under the Food Stamp and WIN Programs, at least to the extent that such sanctions would result in termination of eligibility for continued assistance.

Alternatives

There are two specific alternatives for applying sanctions under this option: These alternatives are:

(1) Terminate assistance for 2 months to a person who fails or refuses to comply with state work requirements. This sanction would be the same as under the Food Stamp Program;[105]

(2) Terminate assistance for 3 months for the first instance of noncompliance and for 6 months for any subsequent refusal, the same as under the AFDC-WIN Program.[106]

Comment

There appears to be a conflict in Montana law concerning sanctions for a General Assistance recipient's refusal to accept available employment. Current administrative rules provide a one-fourth benefit reduction for such refusal.[107] However, the law, which dates back to 1937, seems to require termination of assistance if a recipient refuses to accept an offer of suitable employment. The law states:[108]

> A recipient of general relief must register for employment with the department of labor and industry and must accept available employment within his or her capability. Refusal to accept such employment will render the recipient ineligible for further general relief assistance.

While a different section of law provides authority for imposition of a one-fourth benefit reduction, such reduction seems to apply only to a recipient's refusal to participate in the Project Work Program or to perform work under county workfare requirements. The one-fourth penalty does not seem authorized for refusal to accept an offer of bona fide employment.[109]

OPTION #11

Require that General Assistance recipients fulfill their work obligation before receiving payment of welfare benefits.

Purpose

To prevent payment of General Assistance benefits to recipients without first requiring them to perform work obligations; to provide a stronger incentive for recipients to participate in state-required work programs; to instill among recipients the employment concept of "no work, no pay"; to eliminate one-time GA payments to "transient", nonresident individuals.

Discussion

This option would eliminate the current practice of paying benefits to GA recipients without first requiring them to perform their statutory work

obligation under the Project Work Program or under county workfare requirements.

Under the current system, recipients are paid monthly benefits before fulfilling GA work obligations. This practice seems inadequate because it makes it possible for a recipient to receive benefits without complying with state work requirements. In fact, because sanctions for noncompliance are so lenient, it is possible for a recipient to fail or refuse to comply with GA work requirements without losing any more than one-fourth of his benefits in alternate months. This is because, under the current system, benefits are reduced one-fourth of the benefit amount only in the month <u>following</u> noncompliance. Hence, a recipient could conceivably refuse to perform a work obligation and receive full benefits every other month, with only a one-fourth benefit reduction in between months.[110]

The current practice of paying recipients prior to performance of work obligations also allows "transient", nonresident individuals to receive "quick cash" (i.e., a one-time GA payment of $212) without any obligation to seek work or to participate in employment programs.[111] Moreover, it seems possible that a transient could obtain his first GA benefit check in one county without complying with work requirements, move on to another county, receive the initial GA benefit there, and move on to repeat the process again. In this way, it seems a transient's lifestyle might be supported through a succession of one-time GA payments without him ever performing an obligation to improve himself.

Concern regarding this system has been expressed by county welfare directors in state-assumed counties,

in particular those counties which seem to have large numbers of individuals ("no-shows") who receive the initial GA benefit then fail to orient or enroll in the county GA work program and who apparently leave the county.[112]

Alternatives

None discussed or presented.

Comment

Statistics indicate that counties may have a problem with recipients who enroll in the General Assistance Program, receive the first month's benefits, and, for whatever reason, do not show up for participation in the required GA work program. Data available from one county shows that these "no-shows" comprise between 29%-36% of all persons referred for enrollment in the Project Work Program.[113]

OPTION #12

Require the state to assume all financial and administrative responsibility for public assistance programs in the counties.

Purpose

To provide uniform administration of county welfare services; to provide more equitable financing for public assistance; to require all counties to share in the welfare burden of the state; to simplify the administration of welfare services in the counties; to address the problem of county migration of welfare recipients.

Discussion

This option would provide for complete state assumption of all financial and administrative responsibilities for all county public assistance programs provided under Title 53 of the Montana Code Annotated. These programs include AFDC, Medicaid, General Assistance, and State Medical Assistance.[114]

Under this option, the Department of Social and Rehabilitation Services would become the sole administrative agency responsible for the provision of public assistance in Montana. In this capacity, the Department would establish uniform policies and standards for county programs, and also would administer necessary benefits and services to eligible individuals. In addition, all county department of welfare personnel would become state employees who would be directly responsible to the Department of Social and Rehabilitation Services.

There are two major issues associated with this option. One is funding. The other is the issue of local government control versus state control.

Funding is an issue because of the great disparity that currently exists in the tax burden among counties for the payment of county welfare programs. At the present time, nonassumed counties pay a disproportionately low cost for welfare compared to the 12 counties that have been state-assumed. Nonassumed counties levy an average of only 3.87 mills for public assistance programs. On the other hand, state-assumed counties levy 12 mills.[115] The question is: how can funding be arranged so that nonassumed counties will

accept an equitable share of the financial burden for public assistance in Montana?

The shift of responsibility for welfare from the local to state level raises the second issue regarding local control versus state control. Local government control of welfare programs is a strong tradition in Montana, with 44 counties still retaining control and responsibility for their own programs. It seems likely that these counties will not relinquish control of their programs for the sake of state assumption, especially when state assumption may not produce any financial benefits.

Alternatives

None discussed or presented.

Comment

State assumption of the financial and administrative responsibility for welfare programs is a common feature among states. There are currently 38 states that have state-administered public assistance programs,[116] and there are 16 states with state-financed and state-administered General Assistance Programs.[117]

OPTION #13

Eliminate state assumption of county welfare programs.

Purpose

To return to the counties the responsibility for the provision of public assistance; to increase accountability for the operation of county welfare programs; to limit the state's obligation for funding of General Assistance.

Discussion

Prior to July 1, 1983, all counties were responsible for operating their own public assistance programs. However, in 1983, the Montana Legislature passed House Bill No. 798, which allowed counties the option to transfer responsibility for administration of public assistance programs to the state.[118] The law provided that if a county opted for state assumption, it had to levy 12 mills for deposit in the state treasury, which would be used for payment of services.[119] However, the mill levy could not exceed 12 mills, notwithstanding the actual cost of welfare in the county.[120] Since enactment of the law, 12 counties have opted for state assumption. And, expenditures in all but 2 counties have exceeded the 12-mill levy.[121]

The proposed option would eliminate state assumption of welfare programs in the 12 state-administered counties. This option is similar to the proposal contained in House Bill No. 600, which was introduced by Representative Winslow in the 1987 Montana Legislature.[122] However, this option would differ from House Bill No. 600 in some respects. Overall, this option would:

(1) Transfer all public assistance and protective services to the counties;

(2) Allow counties discretion to determine eligibility and benefit requirements for General Assistance;

(3) Require counties to operate federal assistance programs uniformly throughout the state;

(4) Terminate the emergency state grant-in-aid program, which provides state financial assistance to counties that are unable to meet their obligation under the law to provide public assistance because they have exhausted county poor funds; and

(5) Permit the counties to operate "fund-limited" General Assistance Programs.

Allowing counties to have "fund-limited" General Assistance Programs is an important part of this option. Under a fund-limited program, counties would not be required to provide General Assistance once funds were depleted. Instead, applicants would be turned away when county funds were exhausted.[123] In this way, the major objection of local governments to termination of state assumption would be eliminated.

State-assumed counties have generally opposed termination of state assumption on grounds that they would be required to levy additional mills to meet current obligations.[124] Some counties have indicated they would need to levy as much as 23.8 mills if the state returned welfare programs back to the counties.[125] Under a fund-limited program, counties would no longer have reason for these concerns.

It should be noted that the availability of this option hinges on voter approval of Constitutional Amendment No. 18, which has been submitted to the people of the state.[126]

Alternatives

None discussed or presented.

Comment

Not available.

OPTION #14

Require uniform administration of county welfare programs.

Purpose

To address the problem of recipient migration from nonassumed welfare counties to state-assumed counties; to ensure that all Montanans are provided an equal opportunity to receive the benefits of public assistance; to require nonassumed counties to more equitably share the burden of welfare.

Discussion

Current law requires that federal programs of public assistance, such as AFDC and Medicaid, must be in effect in every county of the state and that the administration and supervision of these programs must be uniform throughout the various counties.[127] However, there is no present requirement that counties must have

the same nonfederal welfare programs. Nor is there any requirement that counties must administer uniform programs. Thus, significant differences currently exist in the provision of public assistance in Montana.

These differences arise primarily between nonassumed counties and state-assumed counties in regard to their programs for general relief and county medical assistance. State-assumed counties operate General Assistance and State Medical Programs, which are administered based on uniform state standards. These standards specify eligibility, benefit levels, and other requirements concerning administration of county programs.[128]

However, under state law, nonassumed counties are not required to have programs similar to those in the state-assumed counties. Thus, some counties have no general relief or county medical programs at all.[129]

Moreover, nonassumed counties are not required to administer their programs in accordance with state standards. Rather, state law allows county general relief and medical assistance programs to be administered as determined by the local county commissioners.[130] Consequently, eligibility and benefit standards for these counties are different from those in the 12 state-assumed counties.

The current situation is alleged to create serious inequities between the counties. In addition, it is alleged that the differences between counties induce migration of welfare recipients into the state-assumed counties from the nonassumed counties, because benefits and eligibility requirements are more generous in the state-assumed counties.

Therefore, this option would propose a requirement that the same programs of public assistance be established in all 56 counties of the state and that these programs be uniformly administered throughout Montana.

Alternatives

None discussed or presented.

Comment

This option is likely to increase the costs for general relief and county medical assistance in the 44 nonassumed counties. There is a projection indicating that, under this option, nonassumed counties could experience an increase in program costs totalling $2.9 million for general relief and $3.2 million for county medical assistance.[131]

OPTION #15

Provide a greater financial incentive for General Assistance recipients to obtain employment.

Purpose

To increase the employment and earnings of welfare recipients; to reward individual work effort; to prevent welfare dependency.

Discussion

This option is based on the perceived need to increase incentives for GA recipients to work or seek additional employment.

Recipients of General Assistance in Montana have, for the most part, lacked available incentives to work. Until recently, if a recipient earned income from employment, the state reduced his GA grant $1 for each $1 of earnings.[132] The situation has been only moderately improved with enactment of House Bill No. 581 during the 1987 legislative session.[133] The new law allows GA recipients to retain the first $50 of earnings each month. However, the law requires the state to deduct all remaining earned income in calculating the recipient's GA grant, so the recipient still incurs a dollar for dollar reduction in benefits after the first $50 is disregarded.[134]

The current system seems certain to discourage GA recipients from seeking employment, because it does not allow recipients to improve their situation through increased work after the first $50 is earned. In addition, the system may even cause some recipients not to report earned income, thereby leading them to commit fraud.

One possible way to address this problem is to adopt a "30 and 1/3" disregard rule for treatment of earned income. This rule, which has its origins in the AFDC program, would allow GA recipients to keep the first $30 plus 1/3 of the remainder of countable earned income, over a certain period of time, as a financial incentive for recipients to increase their employment.[135]

It seems the "30 and 1/3" rule could be easily adopted for use in the General Assistance Program. The rule is well established and in current use in Montana as part of the state AFDC program. Moreover, county welfare workers are familiar with the rule and should not experience problems implementing it in their daily work.

Alternatives

One alternative under this option would be to extend state medical assistance to individuals who lose eligibility for General Relief Assistance because of work. A similar policy exists under the Medicaid and AFDC Programs to provide an incentive for welfare recipients to work or to increase their hours of employment.[136]

Comment

There is evidence from several federally sponsored income maintenance experiments which suggests that more generous financial incentives to work could have the undesirable effect of increasing the number of persons eligible for welfare. Furthermore, the research indicates that increased financial incentives may actually reduce, rather than increase, overall work effort among individuals.[137] The research clearly needs to be examined.

OPTION #16

Mandate that the Department of Social and Rehabilitation Services perform quality assurance reviews of the General Assistance Program to preserve the integrity of the program.

Purpose

To control GA program costs; to reduce the incidence of fraud and error; to assure proper administration of the GA program.

Discussion

A recent audit conducted by the Legislative Auditor reveals that the Department of Social and Rehabilitation Services (SRS) does not currently conduct quality assurance reviews of the General Assistance Program.[138] The audit noted, however, that such reviews were conducted in the past and that these efforts resulted in action leading to the termination or reduction of benefits, the repayment of benefits, and the referral of cases to the county attorney for investigation of fraud.[139] The audit also shows that these quality assurance reviews in the past identified significant weaknesses in case documentation.[140]

But, as pointed out in the audit, SRS eliminated GA quality assurance reviews as of June 30, 1986, to comply with Governor Schwinden's 5% budget reduction request, and the Department did not seek funds in 1987 to restore such reviews.[141] Consequently, quality assurance reviews are not presently being conducted. This is despite the fact that, in the past, each dollar

spent in quality assurance resulted in approximately two dollars in savings to the state.[142] As a result of the audit, the Legislative Auditor recommended that SRS perform quality assurance reviews of the GA program. It is this recommendation which serves as the basis for this option.

Alternatives

None discussed or presented.

Comment

Not available.

OPTION #17

Limit the amount, scope, and duration of public assistance.

Purpose

To curb the size and cost of current welfare programs; to keep welfare costs within the bounds of the taxpayers' willingness to pay; to allow greater control of the state budget.

Discussion

This option would provide for a restriction in the amount, scope, and duration of available public assistance. This option could be instituted in several ways. One possibility would be for the Legislature to identify specific services and programs that should be limited and then for the Legislature to authorize

necessary limits or cuts in services and programs, including enactment of necessary changes in the state statutes to permit these reductions.

Another possible way to impose limits would be for the Legislature to request state agency action to set priorities and to limit services and benefits through administrative action. Establishment of utilization controls for state medical services could be achieved using this approach.[143]

A related possibility would be for the Legislature to fix the budget for various programs at restricted levels and then to authorize state public assistance agencies to limit, reduce, or curtail the amount, scope, or duration of services and benefits in order to stay within budget limits. In essence, this approach would make programs "fund-limited", meaning that once the budget was exhausted, additional funds would not be made available to continue services under the program. Instead, the program would shut down and persons would be denied public assistance even though they were eligible.[144]

Alternatives

None discussed or presented.

Comment

A number of states currently operate "fund-limited" public assistance programs. For example, nine states presently have fund-limited General Assistance Programs. These states include Alaska, Arkansas, Indiana, Missouri, Nebraska, North Dakota, South Dakota, Vermont, and Wyoming.[145]

In addition, most states impose limits on the scope and availability of state medical assistance. In fact, about one-half of the states that provide medical benefits restrict the scope of medical coverage to levels less than Medicaid.[146] And, some states have strict limits on the number of days of available medical care. For example, Oregon limits all inpatient hospital services under its General Assistance-Medical Program to 12 days per year for each recipient.[147]

OPTION #18

Eliminate the General Assistance Program, including the State Medical Program.

Purpose

To require individuals to support themselves or to rely upon the support of family and private charity; to provide tax relief to the citizens of Montana; to curtail welfare expenses in order to balance the state budget.

Discussion

This option would abolish the General Assistance Program in all 56 counties of the state through repeal of Title 53, chapter 3, of the Montana Code Annotated.

At the present time, there is no common law duty nor is there any obligation under the federal law to provide General Assistance.[148] However, an obligation to provide General Assistance does currently exist under Article XII, section 3(3), of the Montana Constitution, which states:

> The legislature shall provide such economic assistance and social and rehabilitative services as may be necessary for those inhabitants who, by reason of age, infirmities, or misfortune may have need for the aid of society.

The current obligation to provide General Assistance would change significantly if the people of the state approve Constitutional Amendment No. 18, which proposes that Article XII, section 3, of the Montana Constitution be amended to read:[149]

> Section 3. Institutions and assistance.
>
> (1) . . . .
>
> (2) . . . .
>
> (3) The legislature <u>may</u> provide such economic assistance and social and rehabilitative services for those who, by reason of age, infirmities, or misfortune, <u>are determined by the legislature to be in need</u>.
>
> <u>(4) The legislature may set eligibility criteria for programs and services, as well as for the duration and level of benefits and services.</u> (emphasis added)

The proposed amendment would allow the Legislature greater discretion to determine eligibility and benefit requirements for current welfare programs.[150] Moreover, under the permissive language of the revised constitutional provision, the Legislature, if it so desired, could eliminate the entire General Assistance Program, including the State Medical Program.[151]

Thus, this option proposes complete elimination of the General Assistance Program. If the program is eliminated in its entirety, it would save the taxpayers about $9 million per year in the 12 state-assumed counties[152] and $1 million per year in the remaining 44 counties.[153]

Alternatives

Some alternatives under this option are:

(1) Eliminate General Assistance Programs, but allow counties to establish and finance such programs if they so desire.

(2) Provide work or work readiness payments in lieu of General Assistance, such as is being done in Minnesota and Utah.[154]

Comment

It should be noted that not all states have a General Assistance Program or a state medical program for the indigent. A recent survey shows that 14 states currently have no statewide or state-mandated program of General Assistance. These states include Alabama, Colorado, Florida, Georgia, Idaho, Iowa, Kentucky, Louisiana, Mississippi, Nevada, North Carolina, Oklahoma, Tennessee, and Texas.[155]

In addition, another survey reveals that only 22 states have state or county general relief programs to provide medical assistance to the poor. And, altogether, a total of 34 states have state programs, other than Medicaid, to provide medical care to those who cannot afford it.[156]

OPTION #19

Provide for payment of General Assistance in the form of vouchers or vendor payments only.

Purpose

To reduce the incidence of fraud under the current system; to ensure that recipients use General Assistance for the purposes intended; to discourage migration of recipients to state-assumed welfare counties.

Discussion

Current General Assistance statutes do not specify the method for payment of general relief. The law merely provides:[157]

> The choice as to the form or forms of relief provided is at the discretion of the county welfare department in counties without state-assumed welfare services or the department [of social and rehabilitation services] if the state has assumed responsibility for the welfare services in a county.

Absent uniform requirements for the form of assistance, differences exist between the state-assumed counties and nonassumed counties in the way General Assistance is provided. For the most part, nonassumed counties provide assistance in the form of county vouchers or direct vendor payments.[158]

County vouchers are disbursing orders issued by the county welfare office, instead of cash payments, for the purchase of food, gasoline, clothing, and other basic necessities. These vouchers are written out to a vendor with a specified dollar amount to be spent for services or goods. The recipient presents the voucher, in lieu of cash, as payment to a local vendor, who then returns the voucher to the county welfare office for payment.[159]

Vouchers are not typically used in state-assumed welfare counties, although vouchers are sometimes used when individuals are unable to manage their resources. In state-assumed counties, the prescribed method for payment of General Assistance is by check or other form that is easily convertible to cash.[160]

According to some county welfare directors, the difference in the form of payment for GA contributes to the migration of welfare recipients to state-assumed counties because recipients generally prefer the receipt of cash instead of vouchers. County directors also say that these cash payments are difficult to monitor and allow recipients to squander resources or to use benefits for the purchase of alcohol, tobacco, and other items that should be excluded. Furthermore, it is observed that cash payments have led to higher GA costs in the state-assumed counties as compared to nonassumed counties.[161]

Accordingly, this option would provide that all payments for GA be made in the form of vouchers or direct vendor payments only.

Alternatives

One alternative under this option is to require that counties pay General Assistance by voucher or vendor payment, but only during the initial one or two months of assistance.[162] This alternative would tailor the option to generally address the problem of one-time GA payments to "transient," nonresident persons. To require the use of vouchers for the entire GA caseload would be administratively time consuming and not very feasible.[163]

Comment

States vary widely in the method for paying GA benefits. Twenty-two of the 36 states with statewide GA programs currently pay benefits in the form of cash or checks. Four states provide benefits only via vendor payments or vouchers. Two states provide cash, vendor payments, and/or vouchers. The remaining states use payment methods that vary by county or municipality. These methods, however, include payment by voucher.[164]

OPTION #20

Require that General Assistance benefits be paid on the basis of actual, determinable need.

Purpose

To reduce welfare costs; to ensure that assistance is provided only to those who need it and then only to the extent that it is needed; to discourage "transient" and nonresident individuals from applying for GA.

Discussion

Present law provides that any person otherwise qualified who makes his home in Montana with the intent to become a resident is eligible for General Assistance.[165] If eligible, a person would receive General Assistance in an amount determined by statute for that person's size of household minus income and resources not excluded by law.[166] If the person has no countable income or resources, he would be entitled to the full benefit prescribed under statute. For a single person, this would mean a cash grant in the amount of $212 per month.[167]

Some county welfare directors have indicated that the current standards of assistance should be revised to allow counties to pay benefits lower than the statutorily required amount if an individual has an actual need for less.[168] These directors have pointed out that, in many cases, individuals have no shelter obligation or other living expenses, yet they are entitled to the statutory maximum benefit that is paid to individuals who have shelter expenses and other living costs warranting the full amount of the grant. County directors say that in these cases individuals need only gas or food money and such persons should be paid only what they actually need.

The directors also note that the current payment standard needlessly costs the state money in those instances in which "transient", nonresident individuals "cash in" on the availability of benefits. These county directors recommend that the state employ a need-based standard of assistance in which persons are paid benefits only in accordance with actual, determinable need.

Alternatives

Some specific alternatives under this option include:

(1) Establish a two flat grant standard of assistance: shelter obligation and no shelter obligation.[169]

(2) Provide a standard of assistance that distinguishes need based on the availability of other assistance (e.g., low income energy assistance, housing subsidies, etc.)[170]

(3) Create a standard of assistance based on actual costs for basic, defined needs.

Comment

Payment of benefits based on actual need is a recognized method for calculating payment of General Assistance benefits. This method of payment is described in government publications as a system of "needs based on actual costs".[171] It should be noted that this payment standard seems related to the use of vouchers as the method for payment of benefits.

NOTES

[1] These are the objectives stated in the original study plan that was presented to the Subcommittee at its first meeting. The objectives reflect the concerns expressed in House Joint Resolution No. 53.

[2] These options first appeared in a discussion paper that was prepared for the Subcommittee in the spring of 1988. See Montana Legislature, Joint Interim Subcommittee on Welfare, "Policy and Program Options to Address Montana Welfare Issues," staff report by Tom Gomez (June 1988).

[3] The bill mentioned is House Bill No. 843, 49th Montana Legislature (Ch. 670, Laws of Montana, 1985).

[4] Id. at section 4(3).

[5] Id. at section 10(2).

[6] The case cited is Butte Community Union v. Dave Lewis, 712 P.2d 1309, 43 St. Rptr. 65 (1986).

[7] Id. at 1313-14.

[8] This was House Bill No. 33, 49th Montana Legislature, 3rd Spec. Sess. (Ch. 10, Special Laws of Montana, June 1986).

[9] See Id. at sections 2 through 5.

[10] Butte Community Union v. Dave Lewis, 745 P.2d 1128, 44 St. Rptr. 1911 (1987).

[11] House Bill No. 637, 50th Montana Legislature (Ch. 343, Laws of Montana, 1987).

[12] See Id., title of act and section 3.

[13] See Montana Legislature, Joint Interim Subcommittee on Welfare, "Effect of Amendment of Constitutional Welfare Provision," legal memorandum by Mary McCue (April 1988) pp. 4-6.

[14] Id. at 7.

[15] Id. at 8.

[16] Id.

[17] House Bill No. 542, 50th Montana Legislature (1987) (not enacted).

[18] House Bill No. 28, 49th Montana Legislature, 3rd Spec. Sess. (1986) (not enacted).

[19] The program is described in Washington State Department of Social and Health Services, 1986 Study of the Characteristics of State General Assistance Programs, by Carl Wolfhagen (Olympia, Washington: April 1987), pp. 2-6.

[20] See Id., p. 17.

[21] A policy of this sort has been established for General Assistance "work readiness" payments in Minnesota. In Minnesota, employable persons may receive only 2 months of work readiness assistance in any consecutive 24-month period. However, if the person is unable to secure suitable employment because he lives in a "distressed county" that has an unemployment rate of 10% or more, the person would be eligible for a maximum of 6 months of assistance in a 12-month period. See Minn. Stat. Ann. § 256D.051.

[22] See Id., p. 17.

[23] See Mont. Code Ann. §53-3-205.

[24] See Mont. Code Ann. §39-51-102.

[25] See 7 C.F.R. §7(n).

[26] See 45 C.F.R. §224.51.

[27] See 7 U.S.C. §2015(d)(3) and 42 U.S.C. §602 (a)(21).

[28] See, e.g., Richard Lyng v. International Union, United Automobile, Aerospace, and Agricultural Implement Workers, UAW, ____ U.S. ____, 108 S. Ct. 1184, 99 L. Ed. 2nd 380 (1988) (case upholding amendments to the Food Stamp Act that deny benefits to strikers).

[29] See Mont. Code Ann. §39-51-2305.

[30] A 60-day waiting was imposed under House Bill No. 843 (Ch. 670, Laws of Montana, 1985). Although not challenged, the waiting period was repealed following

the Montana Supreme Court's decision in Butte Community Union v. Dave Lewis (1986).

[31] Mont. Code Ann. §53-3-205.

[32] The U.S. Supreme Court declared durational residency requirements unconstitutional in a landmark decision in Shapiro v. Thompson, 394 U.S. 618 (1969). For an analysis of this issue, see Montana Legislature, Joint Interim Subcommittee on Welfare, "Constitutionality of Durational Residency Requirements for Public Assistance and Other Welfare Programs," legal memorandum by Mary McCue (October 1987).

[33] Such a waiting period might be constitutional based on reasoning contained in a federal court decision in Hawk v. Fenner, 396 F. Supp. 1 (D. S.D. 1975). This case is analyzed in Maine Legislature, Final Report of the Special Select Commission on the Financing and Administration of General Assistance (1987), appendix F, legal analyst memorandum by John Selser.

[34] The program is provided in all 56 counties of the state. It is authorized under Mont. Code Ann. §53-3-201.

[35] See Final Report of the Special Select Commission on the Financing and Administration of General Assistance.

[36] Legal opinion of Mary McCue, Staff Attorney, Montana Legislative Council. This opinion is shared by Russ Cater, Chief Legal Counsel, Montana Department of Social and Rehabilitation Services. See Letter of Russ Cater to Gail Gray, Director, Montana Department of Social and Rehabilitation Services, dated August 25, 1988.

[37] Reported in 1986 Study of the Characteristics of State General Assistance Programs, at 12-13.

[38] These are some of the basic tenets of the much discussed "reciprocal obligation" or "new social contract", which is recommended as the basis for national welfare reform. See, e.g., A New Social Contract: Rethinking the Nature and Purpose of Public Assistance, report submitted to New York Governor Mario Cuomo by the Task Force on Poverty and Welfare (December 1986).

[39] This is the central policy issue in the current welfare reform debate. See Judith Gueron, Work Initiatives for Welfare Recipients: Lessons from a

Multi-State Experiment (New York: Manpower Demonstration Research Corporation, 1986). For an excellent thesis on the need for restructuring the current welfare system so that it is no longer a system of mere entitlements, see Lawrence Mead, Beyond Entitlement: The Social Obligations of Citizenship (New York: The Free Press, 1986).

[40] The recommendations of this presidential commission are contained in Up from Dependency: A New National Public Assistance Strategy, Vol. 2.

[41] For the recommendations of the nation's governors, see National Governor's Association, NGA Welfare Reform Policy, adopted February 24, 1987.

[42] The Task Force's recommendations are reported in A New Social Contract: Rethinking the Nature and Purpose of Public Assistance.

[43] The final report of the Project on the Welfare of Families is entitled Ladders Out of Poverty (Washington, D.C.: American Horizons Foundation, 1986).

[44] The APWA's recommendations are in One Child in Four: Final Report Part I (Washington, D.C.: American Public Welfare Association, 1986).

[45] The recommendations of this "think tank" are in A Community of Self-Reliance: The New Consensus on Family and Welfare, Report of the Working Seminar on Family and American Welfare Policy, Marquette University and the American Enterprise Institute (March 1987).

[46] As to the feasibility of mandatory work obligations, see Work Initiatives for Welfare Recipients, supra.

[47] For a description of these state programs, see Ladders Out of Poverty, pp. 85-98.

[48] This is a point widely known to students of welfare policy. And, it is a criticism shared by "conservatives" and "liberals" alike. See, e.g., Up from Dependency, supra, Vol. 2, pp. 26-37; and Henry Aaron, Why Is Welfare So Hard to Reform?, (Washington, D.C.: The Brookings Institution, 1973) p. 2.

[49] The "30 and 1/3" income disregard is provided for in 42 U.S.C. 602(a)(8)(A).

[50] This effect has been recognized since establishment of the earned income disregard in 1967. See Poverty Amid Plenty, The Report of the President's Commission on Income Maintenance Programs (Washington, D.C.: U.S. Government Printing Office, 1969).

[51] See the analyses in Why Is Welfare So Hard to Reform?, pp. 32-35; and Ladders Out of Poverty, pp. 14-15.

[52] See Why Is Welfare So Hard to Reform? supra, p. 2. See also Up from Dependency, pp. 26-31. There is evidence that welfare benefits in Montana do, in fact, provide more available income than would wages from work. See Montana Legislature, Minutes of the Joint Interim Subcommittee on Welfare, November 2, 1987, Exhibit #3.

[53] These regulations are contained in 45 C.F.R. §233.100.

[54] This alternative is discussed in Wisconsin State Legislature, "Summary of Employment Disincentives," discussion paper prepared by Susan Goodwin, Senior Analyst, and Richard Sweet, Senior Staff Attorney, Wisconsin Legislative Council, for the Special Committee on Employment Disincentives (January 1987).

[55] This is an option available to the states under 42 U.S.C. §602 (a)(37). This section will be repealed effective October 1, 1990. See section 303, Family Support Act of 1988, Pub. L. No. 100-485.

[56] See discussion and footnotes in Beyond Entitlement, p. 83.

[57] This alternative is identified in Kentucky Legislative Research Commission, Barriers to Self-Sufficiency in Kentucky's Public Assistance Programs, report prepared by Mary Yaeger and Vinson Straub (January 1988).

[58] Two states that have obtained federal waivers of the 30 and 1/3 income disregard rule are Washington and Wisconsin. However, in these states, the federal government has required action to ensure "budget neutrality."

[59] Some caution should perhaps be exercised here despite the fact that this alternative is so often mentioned in connection with welfare-to-work strategies. Child care assistance is expensive. Moreover, there is some indication that the lack of

government child care is seldom the barrier to employment that many believe it to be. See Beyond Entitlement, pp. 73-76, and note 10.

[60] This is because the laws afford the courts discretion in determining existence of a child support obligation. In addition, this is due to the fact that child support is typically an item to be bargained by the attorneys as part of the current legal process for the dissolution of marriage. See Mont. Code Ann. §40-4-204.

[61] The Montana Supreme Court guidelines are in 44 St. Rptr. 828 (1987). The guidelines were made not binding on judges or other officials so as to prevent appeals based upon a claimed failure to observe or follow the guidelines.

[62] Reported in U.S. Department of Health and Human Services, Office of Child Support Enforcement, A Decade of Child Support Enforcement 1975-1985: Tenth Annual Report to Congress, Vol. I (Washington, D.C.: 1986). Former Health and Human Services Secretary Margaret Heckler said, "These figures document a widespread and shameful situation in our country -- the nonsupport of children by their own parents." Id. at 1.

[63] This data was presented to the Subcommittee at its first meeting. See Montana Legislature, Minutes of the Joint Interim Subcommittee on Welfare, November 2, 1987, Exhibit #3.

[64] The report referred to is National Conference of State Legislatures, State Budget Implications: Child Support Enforcement, report by Laura Loyacono and Shelley Smith (March 1988).

[65] The legislation mentioned is 1985 Wis. Laws 29 and 1987 Wis. Laws 27.

[66] This description of the Wisconsin child support system is based on the information contained in Wisconsin Department of Health and Social Services, Office of Child Support, "The Wisconsin Child Support Assurance System - A Brief Description" (December 1987).

[67] From Evaluation of Wisconsin's Child Support Enforcement Law (Washington, D.C.: The Urban Institute, March 1988) cited in Terri Loftis, "Comparison between Montana Options for Welfare Reform and Other State Initiatives: How Do They Measure Up?", A report to the Joint Interim Subcommittee on Welfare (July 1988).

[68] These programs were first described in Montana Legislature, Joint Interim Subcommittee on Welfare, "State Work Programs for Welfare Recipients: Options for New Policies," staff report by Tom Gomez (April 1988).

[69] See 42 U.S.C. §645 and 45 C.F.R. §205.80.

[70] See 42 U.S.C. §609 and 45 C.F.R. §§238.01 through 238.64.

[71] See 42 U.S.C. §602(a)(19)(A) and 45 C.F.R. §§240.01 through 240.64.

[72] See 42 U.S.C. §614 and 45 C.F.R. §§239.01 through 239.84.

[73] At the time this option was first proposed in June 1988, this statement on the status of work programs was true. Since then, the Montana Department of Social and Rehabilitation has developed plans for various pilot work programs.

[74] This proposal is outlined in a letter from the Region III Corrective Action Panel, Montana Department of Social and Rehabilitation Services to the Joint Interim Subcommittee on Welfare, dated December 21, 1987.

[75] This proposal is described in a letter from Donna Porter, Director, Career Training Institute, to the Joint Interim Subcommittee on Welfare, dated December 11, 1987.

[76] See Work Initiatives for Welfare Recipients, and Judith Gueron, "Welfare to Work Programs: Lessons on Recent State Initiatives," Policy Studies Review, Vol. 6 (May 1987), pp. 733-743. See also Terri Loftis, "Review of Fourteen State Work/Welfare Program Evaluations: What We Learned," A report to the Joint Interim Subcommittee on Welfare (June 1988); and Robert Deaton and Terri Loftis, "Welfare, Work, and Training Options for Montana," A final report to the Joint Interim Subcommittee on Welfare (October 1988).

[77] These conclusions are in Work Initiatives for Welfare Recipients, pp. 20-24.

[78] For an excellent description of the program, see Montana Legislature, Joint Interim Subcommittee on Vo-Techs and Job Training, Job Training in Montana: A Report to the 50th Legislature, prepared by Karen Renne (December 1986) pp. 7-25.

[79] Actual expenditures in fiscal year 1986-87 were $11.3 million. See Memorandum from the Office of the Legislative Auditor to the Joint Interim Subcommittee on Welfare (July 1988), p. 3.

[80] 29 U.S.C. §1501.

[81] The bill mentioned is House Joint Resolution No. 54, 49th Montana Legislature, Reg. Sess. (1985) (not enacted).

[82] This bill was House Joint Resolution No. 51, 50th Montana Legislature (1987).

[83] The bill referred to is House Bill No. 907, 50th Montana Legislature (1987). The bill did not pass.

[84] See letter from the Butte Community Union to the Joint Interim Subcommittee on Vo-Techs and Job Training, dated October 4, 1985.

[85] This issue is discussed in Job Training in Montana, supra, pp. 42-44.

[86] 29 U.S.C. §1551(a).

[87] Letter from the Butte Community Union, supra. This point was reiterated by Tim Kearney, Butte Community Union, in a conversation with the staff in May 1988.

[88] For a complete discussion of these alternatives, see Testimony of Mike Wingard, Office of the Legislative Auditor, to the Joint Interim Subcommittee on Welfare, August 26, 1988.

[89] The authority of state legislatures is contained in 29 U.S.C. §1536.

[90] See Rodney Riffel, Job Training: A Legislator's Guide (Denver, CO: National Conference of State Legislatures, 1986), pp. 58-60.

[91] Id. pp. 47-51.

[92] Complete results of the audit are reported in Office of the Legislative Auditor, Project Work Program, Limited Scope Performance Audit (March 1988).

[93] It has been found that, in some counties, the program is intended primarily to discourage individuals from applying for General Assistance. In addition, in one instance, it was found that the program was

redefined to fulfill humanistic, intangible goals ("client sovereignty" and "awakening clients to their own creativity and to the opportunities about them"). In the instance examined, clients were "offered instruction in the techniques and etiquette of lobbying elected officials (in the state legislature)". This instruction was provided so that, consistent with redefined goals, the program would instill in the client "an understanding that he or she can lobby change in any and all aspects of his or her life."

[94] The approach suggested here is based on some of the concepts contained in Robert Deaton, "The Prospects for More Results with General Assistance in Montana: A Preliminary Report on Program Assumptions and Client Profiles," a report to the Joint Interim Subcommittee on Welfare (April 1988).

[95] This is the amount budgeted for the Project Work Program in fiscal year 1989. See House Bill No. 2, 50th Montana Legislature (1987).

[96] Several states have established GA work programs as a component of state AFDC welfare-to-work programs. See "State Work Programs for Welfare Recipients: Options for New Policies," pp. 11-17.

[97] See Mont. Code Ann. §53-3-305 and Administrative Rules of Montana §46.25.733.

[98] Mont. Code Ann. §53-3-303 and Administrative Rules of Montana §46.25.732.

[99] Mont. Code Ann. §53-3-304 and Administrative Rules of Montana §46.25.732.

[100] See, e.g., Letter of Harold McLaughlin, Director, Cascade County Office of Human Services, dated December 1, 1987. Based on conversations with staff to the Joint Interim Subcommittee on Welfare, the views in McLaughlin's letter are shared by Norm Waterman, Director, Lewis and Clark County Office of Human Services.

[101] Letter of Harold McLaughlin.

[102] Id. This conclusion is also shared by Norm Waterman.

[103] Conversation with Norm Waterman, May 1988. This point is also made in Project Work Program, p. 19.

[104] See 45 C.F.R. §224.51.

[105] See 7 C.F.R. §273.7.

[106] See 45 C.F.R. §224.51.

[107] Administrative Rules of Montana §46.25.733.

[108] Mont. Code Ann. §53-3-303.

[109] Mont. Code Ann. §53-3-305 states: "Any recipient who is subject to the provisions of 53-3-303 and 53-3-304 and who without cause refuses to participate in the job search and training program or to perform work assigned to him as therein provided shall lose one-fourth of his next monthly benefit amount for each refusal." There is no language in this section authorizing a one-fourth benefit reduction for a recipient's refusal to accept employment.

[110] This problem is discussed in Job Training in Montana, p. 50.

[111] The problem of the one-time GA payments identified in Project Work Program, pp. 18-19.

[112] Id.

[113] These figures are based on Lewis and Clark County Project Work Program referrals and enrollments for fiscal year 1986 to May 1988. It should be noted that the cumulative "no show" percentage rate is higher (as high as 59%) based on the number of total eligible and total "no shows" through all phases of the program.

[114] These programs are currently administered by the county in those counties that have not opted for state assumption of welfare programs. See Mont. Code Ann. §§53-2-306, 53-3-308, 53-4-221, and 53-6-121.

[115] Data furnished by Peter Blouke, Senior Analyst, Office of the Legislative Fiscal Analyst.

[116] This figure is based on national tabulations reported in U.S. Department of Health and Human Services, Characteristics of State Plans for Aid to Families With Dependent Children Under Title IV-A of the Social Security Act (Washington, D.C.: 1987), p. 347.

[117] 1986 Study of the Characteristics of State General Assistance Programs, supra, p. 20. See also Demetra Nightingale, The Status of State Work-Welfare Programs in 1986: Implications for Welfare Reform (Washington, D.C.: The Urban Institute, 1987) pp. 54-57.

[118] This bill was House Bill No. 798, 48th Montana Legislature (Ch. 651, Laws of Montana, 1983).

[119] See Mont. Code Ann. §53-2-813.

[120] Mont. Code Ann. §53-2-813(2) expressly provides that "The mill levy may not exceed 12 mills, notwithstanding actual expenditures made by the department [of social and rehabilitation services]."

[121] Information provided by Peter Blouke, Senior Analyst, Office of the Legislative Fiscal Analyst.

[122] The bill mentioned is House Bill No. 600, 50th Montana Legislature (1987). The bill was not enacted. It died 60-40 on second reading in the House of Representatives.

[123] This description of "fund-limited" programs is used in 1986 Study of the Characteristics of State General Assistance Programs, at p. 8.

[124] See Minutes of the House Appropriations Committee, 50th Montana Legislature, February 17, 1987.

[125] Id., Exhibit 2.

[126] This is true at least insofar as "fund-limited" programs are concerned. Legal opinion of Mary McCue, Staff Attorney, Montana Legislative Council. See also, "Effect of Amendment of Constitutional Welfare Provision".

[127] See Mont. Code Ann. §§53-4-202 and 53-6-103.

[128] See, e.g., Mont. Code Ann. §§53-3-309 through 53-3-311.

[129] In fiscal year 1986, counties with no general assistance program were Golden Valley, Liberty, and Petroleum. During the same fiscal year, other counties had no general relief program for basic necessities, but had a county medical program. These counties included Daniels, Stillwater, Sweet Grass, and Treasure. Information provided by Peter Blouke, Senior Analyst, Office of the Legislative Fiscal Analyst.

[130] See Mont. Code Ann. §§53-3-308 through 53-3-311. See also Mont. Code Ann. §53-3-114, which restricts the rulemaking authority of the state welfare agency.

[131] Analysis by Peter Blouke, Senior Analyst, Office of the Legislative Fiscal Analyst.

[132] See Mont. Code Ann. §53-3-311 (1985).

[133] House Bill No. 581, 50th Montana Legislature (Ch. 614, Laws of Montana, 1987).

[134] See Mont. Code Ann. §§53-3-205 and 53-3-311.

[135] The "30 and 1/3" earned income disregard is provided for in 42 U.S.C. §602(a)(8)(A).

[136] The federal policy provides extended Medicaid for between 9 and 15 months to persons who lose eligibility for AFDC because of employment. See 42 U.S.C. §602(a)(37).

[137] See, e.g., research cited in Up from Dependency, Vol. 2, pp. 26-31; and Beyond Entitlement, pp. 82-84.

[138] Office of the Legislative Auditor, Department of Social and Rehabilitation Services, Financial Compliance Audit (February 1988).

[139] Id., at p. 6.

[140] Id., at p. 7.

[141] Id.

[142] Id., at p. 6. For a complete breakdown of savings generated by quality assurance reviews, see Montana Legislature, Minutes of the Joint Interim Subcommittee on Welfare, November 2, 1987, Exhibit #3.

[143] Utilization controls are limitations on the use of available medical services. Such controls might include a limitation on the number of days allowed for inpatient hospital care, the number of visits allowed to the emergency room, etc.

[144] This is the description of "fund-limited" programs used in 1986 Study of the Characteristics of State General Assistance Programs, at p. 8.

[145] Id., pp. 8-9.

[146] Id., pp. 17-19.

[147] The limits for this and other programs are described in Montana Legislative Council, "State Medical Indigency Programs," research memorandum by Tom Gomez (September 1986).

[148] See Montana Legislature, Joint Interim Subcommittee on Welfare, "Montana Welfare Law," legal memorandum by Mary McCue (April 1988) p. 1.

[149] Ch. 343, Laws of Montana, 1987.

[150] "Effect of Amendment of Constitutional Welfare Provision," pp. 5-8.

[151] Id., at p. 8.

[152] Based on data reported in Statistical Report: State Fiscal Year 1988, p. 4.

[153] Data provided by Peter Blouke, Senior Analyst, Office of the Legislative Fiscal Analyst.

[154] These programs are described in State Work Programs for Welfare Recipients: Options for New Policies, pp. 14-17.

[155] 1986 Study of the Characteristics of State General Assistance Programs, p. 9.

[156] "State Medical Indigency Programs," p. 2-4.

[157] Mont. Code Ann. §53-3-309.

[158] Based on a review of County General Assistance Plans.

[159] Conversation with Wanda Stout, Director, Jefferson County Department of Public Welfare, January 1988, and Norm Waterman, Director, Lewis and Clark County Office of Human Services, May 1988.

[160] Conservation with Norm Waterman, op. cit.

[161] Conversation with Wanda Stout, op. cit. At least one other county welfare director thought that state-assumed counties could better control the costs of General Assistance if they had the flexibility to use vouchers or vendor payments in lieu of cash. See letter of Jim Fay, Director, Butte-Silver Bow County Office of Human Services, dated September 10, 1987.

[162] Currently, there are two state-assumed counties that are using vouchers during the first 2 months of assistance. There counties are Lewis and Clark County and Flathead County.

[163] Letter of Norm Waterman, Director, Lewis and Clark County Office of Human Services, dated July 7, 1988.

[164] 1986 Study of the Characteristics of State General Assistance Programs, pp. 13, 16.

[165] Mont. Code Ann. §53-3-201.

[166] Mont. Code Ann. §53-3-311.

[167] Mont. Code Ann. §53-3-205.

[168] See, e.g., letter of Jim Fay, op. cit.

[169] The two flat grant standard of assistance is a two-tiered benefit standard that distinguishes between individuals who have shelter expenses and those who don't. A standard of this sort already seems to exist under the AFDC Program. See Administrative Rules of Montana §46.10.403.

[170] Similar standards were proposed by the Montana Department of Social and Rehabilitation Services in 1984, but a state district court enjoined the Department from implementing these standards. See Mont. Admin. Reg. 802 (1984) and Butte Community Union v. John LaFaver, No. 50268 (Dist. Ct. Mont. 1984) (findings of fact, conclusions of law, and restraining order).

[171] See, e.g., U.S. Department of Health and Human Services, 1982 Characteristics of General Assistance Programs (Washington, D.C.: May 1983), p. 12.

CHAPTER FOUR

SUBCOMMITTEE ACTIVITIES AND FINAL RECOMMENDATIONS

The Joint Interim Subcommittee on Welfare held six meetings as part of the interim study requested by HJR 53. These meetings were held during the period from November 2, 1987, to October 20, 1988. Because of limited funding, all meetings were held in Helena.

The following is a summary of the Subcommittee's activities and other actions at these meetings, including the Subcommittee's final recommendations to the 1989 Montana Legislature.

Subcommittee Activities

The Joint Interim Subcommittee on Welfare conducted an ambitious study of welfare in Montana, which was carried out independent and separate from the activities of other government study committees and executive branch agencies.[1]

At its first meeting, the Subcommittee decided that the primary focus of the study would be to:[2]

(1) Examine the overall problem of welfare in Montana, including the problem of welfare dependency, rising public assistance caseloads, and the increasing costs of welfare services;

(2) Review eligibility standards for AFDC and General Assistance Programs, and study options for change in the current standards of eligibility;

(3) Study the current system for administration of county welfare services, and look at alternative systems for administration of county welfare programs; and

(4) Evaluate the experience with work programs in Montana and other states.

The first two meetings of the Subcommittee principally involved the presentation of research and fact gathering for the purpose of identifying problems and issues within the four major areas of study described above. During this phase of the study, a major task of the Subcommittee was to conduct a survey of Montana's counties to determine the characteristics of Montana General Assistance recipients. This survey was conducted in all 56 counties of the state and included interviews with all new applicants and recipients of General Assistance during February 1988.

The survey was intended to address the following questions:[3]

(1) Who receives General Assistance and why?

(2) What is the amount, scope, and duration of assistance provided to General Assistance recipients?

(3) Do current programs create a situation of long-term or generational dependency on welfare?

(4) Is there migration of out-of-state residents to Montana for the purpose of receiving General Assistance benefits?

(5) Is there migration of recipients from nonassumed welfare counties to state-assumed counties?

(6) What is the potential employability of individuals who receive General Assistance?

The survey was a joint effort of the Subcommittee and the Office of the Legislative Fiscal Analyst. In addition, the Subcommittee received the assistance of local county welfare offices and the University of Montana Department of Social Work. Results from this survey appear in Chapter Two of this report.[4]

Another major activity in the early months of the interim was a performance audit of the state General Assistance work program, also known as the Project Work Program. This audit was performed, at the request of the Subcommittee, by the Office of the Legislative Auditor. The audit was intended to address the following questions:[5]

(1) What is the job placement rate of General Assistance recipients enrolled in the Project Work Program?

(2) What is the percentage of recipients who are retained in employment under the Project Work Program?

(3) What is the quality of job placements in the Project Work Program (i.e., What percent of job placements result in full-time employment? Do program participants receive jobs for which they are trained? What is the average wage of job placements?)

(4) Does the Project Work Program reduce the General Assistance caseload or increase the employment rate of welfare recipients?

(5) How do overall program benefits compare with actual program costs?

Some of the results of this audit are discussed in connection with option #9 in Chapter Three of this report. Complete results of the audit are contained in a report available from the Office of the Legislative Auditor.[6]

The time between June and September 1988 was an important period for the Subcommittee. During this period, the Subcommittee held a series of three meetings at which it identified and selected options addressing the need for state welfare reform. In addition, in meetings held during July and August, the Subcommittee developed legislation that eventually would become the basis of the Subcommittee's final recommendations to the 51st Legislature.

There were at least three events in the interim that had a significant impact on the eventual outcome of the study. These events were:

(1) The 1987 Montana Supreme Court decision in Butte Community Union v. Davis Lewis, in which the court struck down the provisions of House Bill No. 33 that denied General Assistance eligibility to able-bodied persons who did not have minor dependent children;[7]

(2) A successful legal defense against a lawsuit that sought to remove CA-18 from the November 1988 ballot;[8] and

(3) Enactment of federal welfare reform legislation.[9]

The Butte Community Union decision was significant because, in response to the court decision, members of the Subcommittee decided that a new bill should be proposed that would establish a constitutional classification for limiting General Assistance eligibility to employable, able-bodied persons. The failure of opponents to remove CA-18 from the election ballot was important because the Subcommittee had based its study, to a great degree, on the assumption that CA-18 would be approved during the November general election.[10] And, federal welfare reform was significant because, although not necessary for state reform of the AFDC Program, it cleared the way for legislation that was based on the concepts of federal welfare reform which originated in the state welfare reform movement.

In the end, the Subcommittee made good assumptions concerning the prospects for welfare reform, leading to a productive conclusion of the interim study called for by HJR 53.

Final Recommendations

The final meeting of the Subcommittee was held on October 20, 1988.

At this meeting, the Subcommittee gave final consideration to 13 bills that the Subcommittee requested for possible recommendation to the 1989 Legislature. These bills were developed based upon the 20 study options that appear in Chapter Three of this report.

Following its consideration of this legislation, the Subcommittee recommended 10 bills that, taken together, are intended to reform Montana welfare programs. The reform proposed in this package of legislation is based on two main policies:

(1) The first is policy that would no longer treat welfare as a pure entitlement, but would instead require individuals to work or prepare for employment in order that they might be able to support themselves and their family;

(2) The second policy is a policy of reforming current laws and regulations to provide financial and economic incentives to encourage welfare recipients to work.

Some of the proposed legislation relates to AFDC. And, in this area, the Subcommittee has developed bills to reform welfare in much the same manner as mandated by the new federal welfare reform law.

A summary of the Subcommittee's proposed legislation appears below as follows:

I.

LC 122 An act to generally revise the laws relating to General Relief Assistance; to establish employability as a classification for determining eligibility for General Relief Assistance; to limit the duration of assistance provided to employable persons; and to require employable recipients to participate in a job search, training, and work program or other special program designed to help recipients overcome problems that impair their employment potential. (Adopted unanimously.)

Explanation

This bill would revise the current eligibility standards for the state General Assistance Program. Under the revised standard, there would be two classes of persons for purposes of eligibility -- the employable and the unemployable.

"Unemployable" persons would be persons considered unable to work or unemployable due to their age or physical, emotional, or mental condition. Such persons would include persons who: (1) are at least 55 years of age and who have a limited ability to obtain or retain suitable employment because of advanced age; (2) have a serious physical, emotional, or mental handicap that prevents them from being employed in any

substantial, gainful employment; or (3) suffer from a permanent or temporary illness, injury, or incapacity that prevents work in any substantial, gainful employment. "Employable" persons would be persons who are not "unemployable."

Under the proposed bill, unemployable persons would be regarded as chronically needy and would be entitled to General Assistance for as long as they remain eligible for such assistance. Employable persons would be considered transitionally needy and would be eligible for General Assistance for 4 months in any 16-month period if they participate in a state work program. However, an employable person could receive General Assistance for a maximum of 6 months in any 18-month period if such person: (1) has a serious barrier to employment and is willing to participate in a program to overcome that employment barrier; (2) suffers from drug or alcohol dependency and is undergoing active treatment in an approved program; or (3) is the head of a household that includes minor dependent children.

The bill defines a "serious barrier to employment" as any limitation in obtaining employment that results from: (1) illiteracy; (2) the failure to attain a high school education or its equivalent; or (3) a lack of work skills, experience, or training necessary to secure employment.

The bill authorizes special treatment services for persons who have serious employment barriers, or who suffer from drug or alcohol dependency, in order to help such persons overcome problems that impair their employment potential. Services, however, are provided subject to available funding.

The bill also contains a number of other changes in the General Assistance laws that were requested by the Montana Department of Social and Rehabilitation Services, including: (1) the retrospective determination of benefits except during the first two months of eligibility; (2) changes in the definition of "household" to better define persons who are legally responsible for each other; (3) revision of the state benefit standard to conform with the state AFDC standard; and (4) a requirement that medical providers accept state reimbursement for general relief medical services as payment in full.

II.

LC 123 An act to deny General Relief Assistance for 3 months to a person who voluntarily leaves employment without good cause or who is discharged from employment due to misconduct. (Adopted by majority vote: 7-1.)

Explanation

This bill would deny General Assistance for 3 months to any person who: (1) has voluntarily quit or left employment without "good cause" connected to such employment; or (2) has been discharged or suspended from employment for misconduct on the job.

The intent of the bill is to establish a policy similar to that under the Montana Unemployment Insurance Law to limit benefits only to persons who have need through no fault of their own. The bill is also intended to make General Assistance policy more

consistent with the disqualification policies that exist under other welfare programs.

The bill contains a "good cause" provision that defines circumstances which constitute good cause for voluntarily terminating a job. However, in a compromise reached by the Subcommittee, was removed from the bill that would have treated participation in a labor strike as grounds for denying General Assistance benefits. The Subcommittee intends that this issue be decided by the 1989 Legislature.

III.

LC 124 An act to extend medical assistance eligibility for persons who lose eligibility for Aid to Families with Dependent Children due to employment. (Adopted unanimously.)

Explanation

This bill would provide transitional medical assistance under the Medicaid Program to persons who become ineligible for AFDC because of work. Under the bill, Medicaid would be extended for one year to any person who loses eligibility for AFDC due to employment. The bill is written to conform with requirements of the new federal welfare reform law.

In general, the bill is intended to eliminate a major AFDC work disincentive, namely the fear of losing Medicaid coverage because of ineligibility for AFDC resulting from employment.

The bill contains a special provision that would require the state to pay the premiums for medical coverage offered by an employer in lieu of providing Medicaid to former AFDC recipients. This option has been made available to states under the new federal welfare reform law.

IV.

LC 125 An act to require the Department of Social and Rehabilitation Services to seek an agreement with the United States Secretary of Health and Human Services for the purpose of establishing a demonstration program to test a policy that would allow recipients of the Aid to Families with Dependent Children-Unemployed Parent Program to work more than 100 hours in a month and still retain eligibility for public assistance. (Adopted unanimously.)

Explanation

This bill would establish an AFDC demonstration program as authorized under Section 503 of the new federal welfare reform law.

The purpose of the demonstration program would be to test a policy that would either eliminate or modify current federal regulations that prohibit recipients of the AFDC-UP Program from working 100 hours or more in a month. The bill is intended to eliminate the work disincentives inherent in the current federal regulations.

Under the new federal welfare reform law, eight states will be allowed to conduct demonstration programs to permit AFDC unemployed parent recipients to work 100 hours or more each month. And one state will be allowed to establish a program to completely eliminate the 100-hour work restriction.

V.

LC 126 An act to impose stricter sanctions for a General Assistance recipient's refusal to comply with state work requirements; and to provide for termination of assistance if an employable recipient without good cause refuses to participate in a required work program or refuses to register for employment, maintain an active job registration file, or actively pursue and accept available employment. (Adopted unanimously.)

Explanation

This bill would allow termination of General Assistance to an employable recipient who without good cause refuses to: (1) register for employment with the state Job Service; (2) maintain an active job registration file; (3) actively pursue and accept available employment within his capacity; (4) participate in a structured job search, training, and work program (Project Work); or (5) perform work as assigned to him under a county workfare program.

Under the bill, refusal without good cause to comply with any of these requirements would render the recipient ineligible for General Assistance for 3

months following the first refusal and 6 months for any subsequent refusal. The sanctions are the same as under the AFDC-WIN Program.

VI.

LC 127 An act mandating that the Department of Social and Rehabilitation Services perform quality assurance reviews to ensure the integrity of the General Relief Assistance Program; and appropriating funds. (Adopted unanimously.)

Explanation

This bill would require the Montana Department of Social and Rehabilitation Services to perform quality assurance reviews in the 12 state-assumed welfare counties to ensure the integrity of the General Assistance Program.

The bill specifically requires that quality reviews include: (1) a review of case records to identify errors resulting in overpayments, underpayments, payments to ineligible persons, and improper denial or termination of assistance to persons eligible to receive General Assistance; (2) verification of eligibility information; (3) home visits; (4) investigation of possible fraud and abuse; and (5) reviews to determine if General Assistance is being administered in compliance with state laws, rules, and procedures.

The bill provides an appropriation of approximately $50,000 for each of the next 2 years to

fund the quality assurance activity required under the bill.

Overall, the bill is intended to control General Assistance Program costs; to reduce the incidence of fraud and error; and to assure proper administration of the General Assistance Program.

VII.

LC 128 An act to implement the work provisions of the federal Family Support Act of 1988; to establish a job search, education, training, and work program for recipients of the Aid to Families with Dependent Children Program; and to require mandatory participation of recipients in the new program; to provide sanctions against recipients who fail to participate in the program or to accept suitable employment. (Adopted unanimously.)

Explanation

This bill would establish a program, consistent with the provisions of the new federal welfare reform law, to assure that AFDC recipients obtain the education, training, and employment needed to avoid long-term dependency on public assistance.

The three basic features of the bill are: (1) the establishment of a state job search, education, training, and work program for AFDC recipients; (2) a mandatory participation requirement similar to AFDC-WIN Program requirements; and (3) sanctions for a

recipient's failure or refusal to participate in the new program or to accept available, suitable employment.

Under the proposed program, a broad range of services and activities would be made available to assist AFDC recipients, including: (1) high school education or its equivalent; (2) basic and remedial education; (3) job skills training; (4) job readiness training; (5) job search; (6) on-the-job training; (7) work supplementation or grant diversion; and (8) community work experience (workfare).

The state may require recipients, unless exempted, to participate in the new program as a condition of their eligibility for AFDC. Persons who would be exempt from participation in the program include individuals who are: (1) ill, incapacitated, or of advanced age; (2) needed in the home because of the illness or incapacity of another household member; (3) a parent or caretaker relative of a child under 3 years of age, except as might otherwise be provided by rule; (4) a child who is under age 16 or who attends school on a full-time basis; and (5) a woman who is pregnant but only during the last month of pregnancy or during the 6-month period following the birth of a child.

The new federal welfare reform law requires states to establish an AFDC work and training program by October 1, 1990. The law also requires states to enroll at least 7% of their nonexempt AFDC caseload in the new program in both 1990 and 1991. The proposed bill is intended to meet these requirements.

VIII.

LC 129 An act to revise and continue a job search, training, and work program for employable recipients of General Relief Assistance; and to clarify the purpose of the program. (Adopted unanimously.)

Explanation

This bill would continue the current General Assistance work program (Project Work) in order to provide employment, training, and experience for employable recipients of General Relief Assistance.

The bill would provide for: (1) intensive job search activity and quick placements for readily employable recipients; (2) skills training and education for recipients who are potentially employable but who lack the skills or training necessary to get a job; (3) a combination of employment activities including job search, job readiness training, and workfare; (4) a 40-hour per week performance requirement; (5) an expectation of employment at the end of the program; (6) follow-up and monitoring of program performance, including a legislative audit; and (7) a prohibition of political activity under the program.

The bill is the result of an audit, requested by the Subcommittee, which concluded that the current General Assistance work program does not reduce the welfare rolls and does not significantly increase the percentage of General Assistance recipients who leave welfare due to employment. The audit also revealed

that the program does not enable recipients to obtain permanent employment.

IX.

LC 130 An act to provide greater financial incentives for General Relief Assistance recipients to obtain employment by allowing a greater earned income disregard, by extending eligibility for General Relief Medical Assistance if eligibility for General Relief Assistance is lost due to employment, and by eliminating the income spenddown requirement for General Relief Medical Assistance. (Adopted unanimously.)

Explanation

This bill is intended to increase the incentives for General Assistance recipients to work and seek additional employment. As drafted, this bill would: (1) apply a "30 and 1/3" earned income disregard rule for the treatment of employment income, the same as under AFDC, for 4 consecutive months; (2) provide extended state medical assistance for 1 month to persons who lose eligibility for General Assistance because of income from employment; and (3) eliminate the income spenddown requirement for persons whose income exceeds the General Assistance income standard, thereby allowing such persons to qualify for General Relief Medical Assistance if their monthly income does not exceed a separate income standard that is currently used to determine the amount of the income spenddown.

The bill will apply only to the 12 counties where the state has assumed financial and administrative responsibility for the operation of public assistance programs.

X.

LC 131 An act to require payment of General Relief Assistance in state-assumed counties by vouchers or vendor payments during the initial 30 days of assistance and to allow such payment in all counties at other determinable times. (Adopted unanimously.)

Explanation

This bill would provide that, in state-assumed counties, General Relief Assistance must be paid only in the form of vouchers or vendor payments for at least the first month that assistance is granted to a new recipient.

The bill would also restrict the use of vouchers to certain approved items, and would prohibit the use of vouchers to purchase alcohol, tobacco, pet food, or other excluded items.

The bill is intended to ensure that recipients use General Assistance for the purposes intended; to discourage migration of recipients to state-assumed welfare counties; and to eliminate one-time General Assistance payments to transient, nonresident persons.

Other Proposed Legislation

The Joint Interim Subcommittee on Welfare did not have adequate time to consider a redraft of a major child support bill. In the belief that this bill deserved the attention of the 1989 Legislature, the Subcommittee voted unanimously to refer the bill to the Legislature without recommendation. This bill is summarized below as follows:

LC 132 — An act to ensure that parents fulfill the duty to support their children by providing for a presumptive obligation of support in certain legal proceedings; to require consideration of uniform guidelines to establish a minimum support level; to require paternity child support orders to include a provision covering health insurance in certain cases; to provide for child support collection through automatic income withholding; and to grant the Department of Revenue the authority to charge fees in cases in which an obligor's failure or refusal to pay support requires the department to act.

Explanation

This bill is intended to restore to parents the financial responsibility for the support of their dependent children, thereby reducing the need for AFDC.

The bill, as drafted, would: (1) establish a presumptive child support obligation that would apply in all paternity actions and proceedings for divorce,

separation, maintenance, or support; (2) require payment of an assured child support amount based on uniform guidelines for the determination of support; and (3) require immediate income withholding of child support payments from the trust income or earnings of the noncustodial parent.

Under the bill, the court would be required to determine child support by following the standards and guidelines mandated in the bill; otherwise the court would have to state in writing its reasons for not doing so.

The bill is consistent with current mandates contained in the new federal welfare reform law.

Legislation Rejected

The Joint Interim Subcommittee on Welfare considered but rejected the following legislation:

(1) An act directing the amendment of Rule 46.10.403, Administrative Rules of Montana, to raise the income and need standards for the Aid to Families with Dependent Children Program to allow recipients to have increased income and retain eligibility for public assistance benefits. (Rejected by unanimous vote.)

(2) An act to provide legislative direction and oversight of programs administered under the federal Job Training Partnership Act in order to ensure that welfare recipients obtain the employment and training needed to avoid long-term

dependency on public assistance; to require that job training programs serve welfare recipients as a priority, target group; to mandate performance standards; to coordinate job training programs with programs and services of public assistance agencies; and to make the state job training plan subject to legislative review. (Rejected by majority vote: 5-3.)

Other Action

Based on its consideration of the issues, the Interim Subcommittee on Welfare rejected the following proposed options for new welfare policy:

(1) Impose a waiting period for eligibility to receive General Assistance.

(2) Require that General Assistance recipients fulfill their work obligation under the Project Work Program before receiving payment of welfare benefits.

(3) Require the state to assume all financial and administrative responsibility for all county public assistance programs in Montana.

(4) Eliminate state assumption of county welfare programs.

(5) Require uniform administration of county welfare programs.

(6) Limit the amount, scope, and duration of public assistance.

(7) Eliminate the General Assistance Program, including the State Medical Program.

(8) Require that General Assistance benefits be paid on the basis of actual, determinable need (i.e. assistance paid for needs based on actual costs, such as a two flat grant standard: shelter obligation and no shelter obligation; or a standard that distinguishes need based on the availability of other forms of assistance).

Additional information concerning the work of the Joint Interim Subcommittee on Welfare is available from the Montana Legislative Council, Room 140, State Capitol, Helena, Montana.

NOTES

[1] During the 1987-88 interim, there were at least three other groups studying welfare programs and social welfare policy. These were the Governor's Human Services Advisory Council (also known as the Human Services Delivery Task Force), Priorities for People III, and the Welfare Reform Subcommittee of the Legislative Finance Committee. None of these groups were oriented toward the development of specific legislation to address Montana welfare problems.

[2] These topics are the major areas of study identified in the Subcommittee's final study plan.

[3] The purpose of the survey is stated in the study plan.

[4] Other results from the survey are contained in Office of the Legislative Fiscal Analyst, "General Assistance Survey Information", a report by Peter Blouke to the Joint Interim Subcommittee on Welfare (June 1988).

[5] Letter of Senator Gary Aklestad, Chairman, Joint Interim Subcommittee on Welfare, to Scott Seacat, Legislative Auditor, dated December 3, 1987.

[6] The report referred to is Office of the Legislative Auditor, Project Work Program, (1988).

[7] The case cited is Butte Community Union v. Dave Lewis, 745 P.2d 1128, 44 St. Rptr. 1911 (1987).

[8] The decision in this case is reported in George Harper v. Mike Greely, Attorney General, _____ P.2d ____, 45 St. Rptr. 1889 (1988).

[9] This was H.R. 1720, 100th Cong., 2nd Sess. (1988). The bill is popularly known as the Family Support Act of 1988.

[10] See Minutes of the Joint Interim Subcommittee on Welfare, November 2, 1987.

A P P E N D I C E S

APPENDIX A

_____ BILL NO. _____

INTRODUCED BY _____

BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE ON WELFARE

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS RELATING TO GENERAL RELIEF ASSISTANCE; TO ESTABLISH EMPLOYABILITY AS A CLASSIFICATION FOR DETERMINING ELIGIBILITY FOR GENERAL RELIEF ASSISTANCE; TO LIMIT THE DURATION OF ASSISTANCE PROVIDED TO EMPLOYABLE PERSONS; TO REQUIRE EMPLOYABLE RECIPIENTS TO PARTICIPATE IN A JOB SEARCH, TRAINING, AND WORK PROGRAM OR OTHER SPECIAL PROGRAM DESIGNED TO HELP RECIPIENTS OVERCOME PROBLEMS THAT IMPAIR THEIR EMPLOYMENT POTENTIAL; AMENDING SECTIONS 53-3-109, 53-3-205, 53-3-206, 53-3-209, 53-3-304, 53-3-308, 53-3-311, AND 53-3-313, MCA; REPEALING SECTION 53-3-108, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Legislative findings. The legislature finds that:

(1) Article XII, section 3, of the Montana constitution grants the legislature authority to determine the public policy governing the provision of public assistance;

(2) public policy requires that certain persons who

are in need should be provided with assistance through programs of general relief;

(3) general relief assistance, along with other assistance programs, should be available to provide:

(a) basic necessities that allow minimum subsistence compatible with decency and health; and

(b) financial assistance for medical services necessary for the treatment of a person's serious medical condition. However, general relief medical assistance should not be available to nonindigent persons who have catastrophic medical expenses.

(4) general relief assistance should not be available to those persons who have adequate income or resources to support themselves, nor should general relief assistance be provided in duplication of services and benefits available through other federal or state assistance programs;

(5) the legislature, in order to allocate scarce welfare resources to those most in need, may establish a reasonable classification that distinguishes between persons who are chronically in need of assistance and persons who are transitionally needy; and

(6) as the basis for the classification of recipients, it is reasonable to conclude that:

(a) some persons are in need of assistance because their age or physical, emotional, or mental condition

renders them incapable of substantial, gainful employment. Such persons are chronically needy and should be entitled to general relief assistance for the duration of their need.

(b) some persons are in need of assistance because they are unemployed or lack the skills, training, or experience to become employed. Such persons should be considered transitionally needy and should be provided only temporary, interim assistance and state help in obtaining gainful employment. In addition, because some persons who are transitionally needy suffer from serious personal problems or barriers to employment, the state should provide assistance to enable these persons to overcome the problems that impair their employment potential.

Section 2. Legislative policy and intent. Consistent with the findings in [section 1], the legislature intends that:

(1) the department shall administer or supervise the provision of general relief assistance in each county of the state;

(2) general relief assistance should be provided to those in need, but only to the extent of such need;

(3) unemployable persons, because they are chronically in need, should be afforded general relief for as long as they have need for such assistance;

(4) employable persons, being transitionally needy,

should be granted 4 months of general relief for basic necessities, which relief will be available only if such persons participate in a job search, training, and work program as required by 53-3-304; and

(5) in recognition that not all employable persons are ready to participate in the work force and that the state has a duty to protect the welfare of children, nonmedical general relief should be provided for 6 months to persons who meet the eligibility criteria provided in [section 4].

Section 3. Section 53-3-109, MCA, is amended to read:

"53-3-109. Definitions. For the purposes of this chapter, the following definitions apply:

~~(1)--"Able-bodied"--means-the-condition-of-a-person-who is-not-infirm.~~

~~(2)~~(1) "Basic necessities" means food, shelter, utilities, and personal needs.

~~(3)~~(2) "Department" means the department of social and rehabilitation services provided for in Title 2, chapter 15, part 22.

(3) "Employable" means the condition of a person who is not unemployable. A person who is employable is transitionally needy and is not eligible for general relief for basic necessities except as provided in [section 4].

(4) "General relief" or "general relief assistance" means~~,--in-accordance-with-this-chapter,~~ a program of public

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assistance for basic necessities and medical needs ~~to~~ for those persons determined to be eligible for ~~that~~ such assistance.

(5) "Household" means:

(a) a collective body of persons consisting of spouses or parents and their children who reside together in the same residence; and

(b) all other persons who by choice, or necessity~~,-or legal-relationship~~ are mutually dependent upon each other for basic necessities and who reside in the same residence.

(6) "Income" means the value of all property of any nature, earned, unearned, or in-kind, including benefits, that is reasonably certain to be received ~~by~~ or ~~available-to~~ is actually received during the month by members of a household ~~during-the-month-of-the-receipt-of-the-income.~~

~~(7)--"Indigent"-or-"misfortunate"-means-a-person-who-is lacking--the--means,--financial--or--otherwise,--by-which-to prevent-destitution-for-himself-and--others--dependent--upon him--for-basic-necessities-and-who-is-otherwise-eligible-for assistance-under-this-chapter.--Except-as-provided-otherwise in--53-3-285--and--53-3-289,--the--terms--do---not---include able-bodied---persons---unless--they--have--dependent--minor children-living-in-the-household.~~

~~(8)--"Infirm"-means-the-condition-of-a--person--who--is diagnosed--by--a-licensed-medical-practitioner-and-confirmed by--an--expert--medical--review-to-have-a-physical-or-mental handicap-that-significantly-impairs-the-person's-ability--to be-employed.~~

~~(9)~~(7) "Lump-sum income" means a nonrecurring source of income received in a single payment by a household during any eligibility period, including but not limited to proceeds from a lawsuit, insurance settlement, inheritance, lump-sum retirement, veterans' or unemployment benefits; benefits received under the federal Social Security Act; prizes; and tax refunds.

~~(10)~~(8) "Resource" means all real and personal property retained after the calendar month of its receipt and which the household or a member of the household has a legal right to sell or liquidate.

~~(11)~~(9) "Secure facility" means any facility in which a person may be lawfully held against his will by federal, state, or local authorities.

(10) "Serious barrier to employment" means a limitation in obtaining employment that results from:

(a) a lack of work skills, experience, or training necessary to secure employment;

(b) the failure to attain a high school education or its equivalent; or

(c) illiteracy.

~~(12)~~(11) "Serious medical condition" means a physical

condition, including pregnancy, that causes a serious health risk to a person and for which treatment is medically necessary~~,--including-pregnancy~~. Diagnosis and determination of necessary treatment must be made by a licensed medical practitioner, and the department may confirm it through an expert medical review. Necessary treatment includes prenatal care and such other elective treatments as determined by department rule to be medically necessary.

(12) (a) "Unemployable" means the condition of a person who:

(i) is at least 55 years of age and has a limited ability to obtain or retain suitable employment because of advanced age; or

(ii) has been diagnosed by a licensed medical practitioner and confirmed by an expert medical review to:

(A) have a serious physical, emotional, or mental handicap that prevents him from being employed in any substantial, gainful employment; or

(B) suffer from a permanent or temporary illness, injury, or incapacity that prevents the person from working in any substantial, gainful employment.

(b) A person who is unemployable is chronically needy and must be provided general relief as provided in [section 4]."

Section 4. Eligibility classifications -- duration of

assistance. (1) For purposes of eligibility, a recipient of general relief must be classified as either employable or unemployable.

(2) Unemployable persons may receive general relief for as long as they remain eligible.

(3) Except as provided in subsection (4), employable persons who are otherwise eligible may receive general relief for basic necessities for a period not to exceed 4 months in any 16-month period. However, assistance granted prior to July 1, 1989, may not be considered in determining eligibility.

(4) An employable person may receive nonmedical general relief for a maximum of 6 months in any 18-month period if such person:

(a) has a serious barrier to employment and is willing to participate in a program to overcome that employment barrier;

(b) suffers from drug or alcohol dependency and, subject to available funding, is undergoing active treatment in an approved program; or

(c) is the head of a household that includes minor dependent children and is enrolled in a job search, training, and work program as required by 53-3-304.

Section 5. Section 53-3-205, MCA, is amended to read:

"53-3-205. Eligibility for general relief. (1) A

Except as otherwise provided under this chapter, a person or ~~persons-constituting-a-household~~ may receive general relief ~~assistance~~ for basic necessities if ~~the--household--is determined-to-be--eligible--under--the--provisions--of--this section--and--is--in--need-of-such-assistance-as-a-result-of their-infirmity,-misfortune,-or-indigency.~~

~~(2)--A-household-is-eligible-for-general-relief-if--the~~ his total household income, exclusive of the first $50 earned each month by each household member, does not exceed that set forth in the following table:

Number of Persons in Household	Monthly Income Standard
1	$212
2	~~282~~ 286
3	~~354~~ 359
4	~~426~~ 433
5	~~501~~ 507
6	~~570~~ 580
7	~~642~~ 654
8	~~713~~ 727
9	~~785~~ 762
10 or more	~~857~~ 795

~~(3)--Able-bodied---persons---without---dependent--minor children-living--in--the--household--are--not--eligible--for nonmedical--general-relief-assistance,-except-as-provided-in~~

~~53-3-289.~~

~~(4)~~(2) (a) ~~When--the---household's~~ If a person's household income exceeds the monthly income standard ~~for-a household-of-that-size~~ provided in subsection (1) because of receipt of lump-sum income, ~~the--household--will--be~~ he is ineligible for nonmedical general relief for the full number of months, beginning with the month of receipt, derived by dividing the total of the lump-sum income and other income by the monthly income standard ~~for-a-household-of-that-size.~~ Any income remaining from this calculation will be considered as income in the first month following the period of ineligibility.

(b) The period of ineligibility may be recalculated if the household size changes or if a portion of the ~~lump--sum~~ lump-sum income was used to pay medical bills for a serious medical condition.

(c) Ineligibility due to the receipt of ~~a--lump--sum~~ lump-sum income does not preclude eligibility for general relief medical assistance.

~~(5)~~(3) All applicants for and recipients of general relief assistance who reside in the same residence are considered as one household.

~~(6)--Prospective-income-that-is-reasonably--certain--to be--received--by--the-household-during-an-eligibility-period must-be-considered-when-determining-eligibility.~~

(4) Eligibility for nonmedical general relief assistance must be determined prospectively, based on household income and other relevant circumstances reasonably certain to exist in the month in which assistance is to be provided.

(5) (a) Except as provided in subsection (5)(b), the equity value of all household resources must be considered available to meet the needs of the individual applying for general relief.

~~(7)~~(b) The following resources of a household must be excluded from consideration of resources for eligibility purposes:

~~(a)~~(i) the domicile of the household, including necessary appurtenant land not exceeding 10 acres;

~~(b)~~(ii) a motor vehicle that has no more than $1,500 in equity value;

~~(c)~~(iii) personal items, clothing, household furniture, appliances, and other essential household items, the total equity value of which does not exceed resource eligibility limits established by rule; and

~~(d)~~(iv) tools of a trade that are essential to the current or future employment of a household member.

~~(8)~~(6) A person who is committed or sentenced by legal process to a state institution or a secure facility or who is incarcerated in a secure facility pending resolution of

legal process is not eligible for general relief.

~~(9)~~(7) A person who resides for a period of 1 day or more in any state or federally operated institution or residence is not eligible for general relief for the period of that residency.

~~(10)~~(8) For the purposes of an eligibility determination, an applicant for or recipient of general relief may be requested to produce all financial and other information concerning the household.

~~(11)~~(9) Whenever practical, an eligibility determination must be made within 30 days of the date of application and the applicant must be notified in writing of the eligibility determination and the reasons for the determination.

~~(12) An--alien--determined--to--be-illegally-within-the United-States-is-not-eligible-for-general-relief.~~"

Section 6. Section 53-3-206, MCA, is amended to read:

"53-3-206. Eligibility for general relief medical assistance. (1) In order to be considered for eligibility for general relief medical assistance, a person must be found to have a serious medical condition.

(2) ~~Eligibility-for-general-relief-medical--assistance must-be-determined-as-provided-in-this-section-and-53-3-205.~~ A person with a serious medical condition must apply for general relief medical assistance prior to the provision of

medical services or within 90 days of the date the medical service is first provided. Eligibility is determined as of the date medical service is first provided.

(3) All persons who reside in the same residence and are legally related to or responsible for each other are considered to be one household for purposes of determining general relief medical assistance.

(4) All individual or household resources must be used to offset medical obligations except those excluded in 53-3-205~~(7)~~(5).

(5) To determine eligibility for county general relief medical assistance, a county welfare board may promulgate rules to establish the circumstances under which persons are unable to pay for their medical aid and hospitalization. However, no household with an income exceeding 300% of the amount set forth in 53-3-205~~(2)~~(1) is eligible for such medical assistance.

(6) In a county with state-assumed welfare services:

(a) covered medical services must be provided at no cost to the person residing in a household if the average household monthly income that is reasonably certain to be received in a 12-month period beginning with the month the medical service was provided does not exceed the amount in 53-3-205~~(2)~~(1);

(b) a person is not eligible for medical services if

the household in which he resides has an average monthly income reasonably certain to be received in a 12-month period beginning with the month the medical service was provided in excess of that set forth in the following table:

Family Size	Monthly Income Level
1	$ 287
2	433
3	526
4	618
5	714
6	804
7	896
8	988
9	1,081
10	1,173
11	1,194
12	1,215
13	1,236
14	1,256
15	1,277
16 or more	1,298

~~(c)--if-the-average-household-monthly-income-reasonably certain-to-be-received-in-a-12-month-period--beginning--with the--month--the--medical-service-was-provided-is-between-the~~

~~amount in 53-3-205(2) and the monthly income level set forth in subsection (b), a household must first incur covered medical costs equal to the difference between its average monthly income and the monthly income standard in 53-3-205(2) before medical assistance is provided.~~"

Section 7. Section 53-3-209, MCA, is amended to read:

"53-3-209. Period of eligibility. (1) The period of eligibility for receipt of general relief for basic necessities is 1 month~~, except~~. Except as provided in ~~subsections (2) and~~ subsection (3)~~.~~ A, a person may seek to establish eligibility for the succeeding month prior to the end of the current month of eligibility.

~~(2) Able-bodied persons without dependent minor children living in the household are eligible for no more than 2 months of nonmedical general relief assistance within any 12-month period, except that assistance received prior to November 1, 1986, shall not be counted.~~

~~(3)~~(2) Eligibility for general relief medical assistance is granted for a period of 1 month and terminates when the serious medical condition of the person has been treated. Except as provided in subsection (3), continued eligibility for general relief medical assistance may be established in any subsequent month.

~~(4)~~(3) The period of eligibility for any type of general assistance terminates at any time the county welfare

board or the department determines that the household:

(a) no longer meets the applicable eligibility requirements; or

(b) received general relief by means of fraud or mistake."

Section 8. Section 53-3-304, MCA, is amended to read:

"53-3-304. Power to require ~~recipient~~ employable recipients to participate in job search, training, and work programs. (1) The department shall cooperate with the department of labor and industry and other designated agencies to initiate, promote, and develop job search, training, and work programs that will contribute to the employability of persons receiving general relief under the provisions of this chapter. These programs must be designed to preserve and improve the work habits and job-finding skills of recipients for whom jobs are not otherwise immediately available.

(2) For each county with state-assumed welfare services, the department shall contract with the department of labor and industry or other designated agencies to institute a job search, training, and work program that provides ~~able-bodied~~ employable general relief recipients with the necessary job-finding skills to seek unsubsidized employment independently.

(3) ~~In~~ Except as provided in [section 11], in a county

with state-assumed welfare services, an ~~able-bodied~~ employable recipient of general relief shall enroll in a structured job search and training program at an employment office or other site designated by the department. The program must include but is not limited to the following elements:

(a) assessment and testing;

(b) an employability plan;

(c) remedial education or job skills training, if it is called for in the employability plan and if it provides for immediate referral to an appropriate Job Training Partnership Act program;

(d) a job readiness and job search program that must include but is not limited to:

(i) self-assessment and occupational testing;

(ii) instruction in completing applications, writing resumes, and preparing for interviews;

(iii) identification of and contact with potential employers; and

(iv) participation in simulated job interviews;

(e) a supervised effort to find employment; and

(f) efforts to address barriers to employment.

(4) (a) In addition to the training required in subsection (3), if a public agency or a private nonprofit agency has work available which a recipient of general

relief is capable of performing or the department of social and rehabilitation services is required to operate a work program under the provisions of 53-2-822, then the county department of public welfare or the department of social and rehabilitation services may require a recipient to perform work at the minimum wage or may pay a recipient at the prevailing rate of wages paid in that county by that agency for similar work, to be paid from the county poor fund or state funds, in place of granting him general relief.

(b) No currently employed worker may be displaced by any recipient (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits).

(c) No recipient may be employed when any other person is on layoff from the same or any substantially equivalent job or when the employer has terminated the employment of any regular employee or otherwise reduced its workforce with the intention of filling the vacancy so created by hiring a recipient whose wages are subsidized under this section.

(5) The county department of public welfare or the department of social and rehabilitation services, as the case may be, shall provide coverage under the Workers' Compensation Act for those recipients of general relief working under the provisions hereof and may enter into such agreements with the division of workers' compensation of the

department of labor and industry as may be necessary to carry out the provisions of this section.

(6) A recipient who has completed the assessment and testing portions of the program and has developed an employability plan shall participate in the job readiness and job search program provided for in subsection (3)(d) for at least 80 hours in any 5-week period and shall spend at least 8 hours a week in a supervised effort to find employment.

(7) A recipient who has completed the job search program provided for in subsection (3) shall:

(a) continue to spend at least 8 hours a week in a supervised effort to find employment; and

(b) for the duration of his eligibility for general relief, spend 32 hours a week, as called for in the employability plan, in:

(i) remedial education;

(ii) counseling;

(iii) job skills training;

(iv) work for a public agency or a private nonprofit agency, as required in subsection (4); or

(v) job-seeking or other related activities.

~~(8)--Nothing--in--this-chapter-requires-a-recipient-to:~~

~~(a)--participate-in-the-job-search-and-training-program required--by--subsection--(3)--or--to--perform--work---under~~

~~subsection--(4)-if-the-training-or-work-site-is-more-than-18 miles-from-his-residence,--unless--the--department--provides transportation----or----reimburses----the----recipient---for transportation-costs;-or~~

~~(b)--continue-the-activities-required-by-subsection-(7) for-longer-than-6-months.~~

~~(9)~~(8) Where a labor organization represents a substantial number of employees who are engaged in similar work or training in the area where it is proposed to assign the recipient to work or training, an opportunity must be provided for that organization to submit comments with respect to such proposal.

~~(10)~~(9) No work program may impair existing contracts for services or collective bargaining agreements, and no work program that would be inconsistent with the terms of a collective bargaining agreement may be undertaken without the written concurrence of the labor organization and employer concerned."

Section 9. Section 53-3-308, MCA, is amended to read:

"53-3-308. Responsibility for general relief. (1) The county boards of public welfare and the department, in accordance with this chapter and other relevant statutes, are responsible for the provision of general relief ~~to indigent-or-misfortunate-persons~~ as follows:

(a) Counties without state-assumed welfare services

shall provide general relief consistent with their duties as specified in Title 53, chapter 2, parts 3 and 7, and this chapter.

(b) In counties with state-assumed welfare services, general relief must be provided by the department and must be consistent with its duties as specified in Title 53, chapter 2, part 8, and this chapter.

(2) In counties without state-assumed welfare services, general relief must be paid from the county poor fund as authorized in 53-2-321 through 53-2-323.

(3) In counties with state-assumed welfare services, general relief must be paid from and may not exceed money available through:

(a) a general appropriation for such purpose;

(b) county mill levies as provided for in 53-2-813; and

(c) federal or other assistance."

Section 10. Section 53-3-311, MCA, is amended to read:

"53-3-311. Amount of general relief for basic necessities. (1) In a county without state-assumed welfare services, the amounts of general relief for basic necessities must be determined and adopted at the discretion of the county welfare board.

(2) In a county with state-assumed welfare services, the amount of general relief for basic necessities available

to an eligible household is the amount listed for the same size household in the table in 53-3-205~~(2)~~(1), less countable income and resources not excluded in 53-3-205~~(7)~~(5).

(3) Except as provided in subsection (4), the amount of general relief for basic necessities that is available to an eligible household must be determined retrospectively on the basis of the household's actual countable income in the 2 months immediately preceding the month in which assistance will be received. All available nonexempt resources must be considered in determining the amount of general relief available to the household, as provided in 53-3-205(5), during the benefit month.

(4) During the first 2 months following an initial application for assistance, the amount of general relief for basic necessities must be determined prospectively on the basis of household income and resources that are reasonably certain to exist during the month that assistance is to be granted."

Section 11. Services for recipients in need of special assistance. (1) In a county with state-assumed welfare services, a person who has a serious barrier to employment or who suffers from drug or alcohol dependency shall report to the agency designated pursuant to 53-3-304(2) to implement a job search, training, and work program for the

purpose of receiving an assessment to determine whether the person is likely to benefit from counseling, therapy, or rehabilitation. The agency shall require that the person be enrolled in either:

(a) a job search, training, and work program established under 53-3-304, except that he need not participate in the job search program under 53-3-304(3)(d) until the agency determines that he is ready to participate in the work force; or

(b) a program designed specifically to help that person overcome problems that impair the potential for employment.

(2) Subject to available funding, a program provided for in subsection (1)(b) must include the following elements:

(a) assessment and testing;

(b) an employability plan;

(c) remedial education or job skills training, if required by the employability plan; and

(d) services, including counseling, therapy, and rehabilitation, to address serious barriers to employment and drug or alcohol dependency.

Section 12. Section 53-3-313, MCA, is amended to read:

"53-3-313. Selection of medical providers -- conditions of participation. (1) In arranging for medical

care for those unable to provide it for themselves, the county board of public welfare or the department may select a medical provider.

(2) As a condition of participation in the general relief medical program, a provider of medical services must accept as payment in full the amount paid by the state or county for such services.

(3) No provider of medical services may seek from a recipient any payment in addition to the amount paid by the state or county for such services."

Section 13. Repealer. Section 53-3-108, MCA, is repealed.

Section 14. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

Section 15. Codification instruction. [Sections 1, 2, 4, and 11] are intended to be codified as an integral part of Title 53, chapter 3, and the provisions of Title 53, chapter 3, apply to [sections 1, 2, 4, and 11].

Section 16. Coordination instruction. If ___ Bill No. ___ [LC 129] is passed and approved and if it includes a section renumbering 53-3-304(3)(d), then the reference to 53-3-304(3)(d) in [section 11 of this act] is changed to correspond to the renumbering contained in ___ Bill No. ___ [LC 129].

1 **Section 17.** Severability. If a part of [this act] is
2 invalid, all valid parts that are severable from the invalid
3 part remain in effect. If a part of [this act] is invalid
4 in one or more of its applications, the part remains in
5 effect in all valid applications that are severable from the
6 invalid applications.
7 **Section 18.** Effective date. [This act] is effective
8 July 1, 1989.

-End-

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_____ BILL NO. _____

INTRODUCED BY _____

BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE ON WELFARE

A BILL FOR AN ACT ENTITLED: "AN ACT TO DENY GENERAL RELIEF ASSISTANCE FOR 3 MONTHS TO A PERSON WHO VOLUNTARILY LEAVES EMPLOYMENT WITHOUT GOOD CAUSE OR WHO IS DISCHARGED FROM EMPLOYMENT DUE TO MISCONDUCT; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Ineligibility due to voluntary termination of employment. (1) A person is not eligible to receive general relief assistance for a period of 3 months if he has voluntarily left employment without good cause connected to such employment.

(2) For purposes of subsection (1), a person has voluntarily left employment with good cause if he has left work because of:

(a) a compelling reason directly related to the job under circumstances that would cause a reasonably prudent person to leave his employment;

(b) work conditions that pose an undue risk of personal injury, illness, or harm;

(c) unlawful discrimination, harassment, or other

mistreatment by the employer; or

(d) personal illness or injury and, after recovering from such illness or injury, he returns to his employer and finds no suitable work available.

Section 2. Ineligibility because of discharge due to misconduct. (1) A person is ineligible to receive general relief assistance for a period of 3 months if he has been discharged or suspended from employment for misconduct related to the individual's work or affecting his employment.

(2) For purposes of subsection (1), "misconduct" means:

(a) intentional, willful, or wanton disregard of the employer's interest or of the employee's duties and obligations to his employer;

(b) material breach of the employee's duty to his employer as found in:

(i) the employee's deliberate violation or disregard of standards of behavior that the employer has a right to expect of his employee; or

(ii) carelessness or negligence of such degree or recurrence as to manifest culpability, wrongful intent, or evil design or to show an intentional or substantial disregard of the employer's interest;

(c) dishonesty toward the employer, including acts

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such as deliberate falsification of company records, theft, deliberate deception, lying, and other statements or acts that demonstrate a willful or wanton disregard of the employer's interest;

(d) excessive, unexcused absences from work or repeated, unexcused tardiness by the employee;

(e) insubordination; or

(f) assault, threats of violence, provoking a fight, or stealing from a fellow employee if committed on the premises of the employer.

(3) The following do not constitute misconduct within the meaning of subsection (1):

(a) mere inefficiency or unsatisfactory conduct of the employee;

(b) inadvertence or ordinary negligence in isolated instances; or

(c) good faith errors in judgment or discretion.

Section 3. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

Section 4. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 53, chapter 3, part 2, and the provisions of Title 53, chapter 3, part 2, apply to [sections 1 and 2].

Section 5. Effective date -- applicability. [This act]

is effective on passage and approval and applies to eligibility determinations made beginning July 1, 1989.

-End-

_____ BILL NO. _____

INTRODUCED BY _____

BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE ON WELFARE

A BILL FOR AN ACT ENTITLED: "AN ACT TO EXTEND MEDICAL ASSISTANCE ELIGIBILITY FOR PERSONS WHO LOSE ELIGIBILITY FOR AID TO FAMILIES WITH DEPENDENT CHILDREN DUE TO EMPLOYMENT; AND PROVIDING EFFECTIVE DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Extension of eligibility for medical assistance to persons terminated from aid to families with dependent children. (1) The department of social and rehabilitation services shall provide for the extension of eligibility for medical assistance to persons who lose eligibility for aid to families with dependent children due to employment in accordance with section 1925 of Title XIX of the Social Security Act [42 U.S.C. 1396r-6].

(2) In providing for the extension of eligibility for medical assistance under subsection (1), the department shall provide for health insurance or other health coverage in accordance with subsections 1925(a)(4)(B) and 1925(b)(4)(C) of Title XIX of the Social Security Act [42 U.S.C. 1396r-6(a)(4)(B) and 42 U.S.C. 1396r-6(b)(4)(C)] and may exercise the other options contained in section 1925 of

Title XIX of the Social Security Act [42 U.S.C. 1396r-6] regarding the provision of medical assistance.

Section 2. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 53, chapter 6, part 1, and the provisions of Title 53, chapter 6, part 1, apply to [section 1].

Section 4. Effective dates. (1) [Section 1] is effective on the date the federal act becomes effective.

(2) [Sections 2, 3, and this section] are effective on passage and approval.

-End-

_____ BILL NO. _____

INTRODUCED BY _____

BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE ON WELFARE

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES TO SEEK AN AGREEMENT WITH THE UNITED STATES SECRETARY OF HEALTH AND HUMAN SERVICES FOR THE PURPOSE OF ESTABLISHING A DEMONSTRATION PROGRAM TO TEST A POLICY THAT WOULD ALLOW RECIPIENTS OF THE AID TO FAMILIES WITH DEPENDENT CHILDREN-UNEMPLOYED PARENT PROGRAM TO WORK MORE THAN 100 HOURS IN A MONTH AND STILL RETAIN ELIGIBILITY FOR PUBLIC ASSISTANCE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Demonstration program -- purpose. (1) The department of social and rehabilitation services shall seek an agreement with the U.S. secretary of health and human services in order to establish a demonstration program as authorized under section 503 of the federal Family Support Act of 1988, Public Law 100-485.

(2) The purpose of the program under subsection (1) is to test a policy that would either eliminate or modify the requirements of 45 CFR 233.100 to allow unemployed recipients of aid to families with dependent children to

work more than 100 hours in a month and still retain eligibility for public assistance.

Section 2. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

Section 3. Effective date. [This act] is effective on passage and approval.

-End-

_____ BILL NO. _____

INTRODUCED BY _____

BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE ON WELFARE

A BILL FOR AN ACT ENTITLED: "AN ACT TO IMPOSE STRICTER SANCTIONS FOR A GENERAL ASSISTANCE RECIPIENT'S REFUSAL TO COMPLY WITH STATE WORK REQUIREMENTS; TO PROVIDE FOR TERMINATION OF ASSISTANCE IF AN EMPLOYABLE RECIPIENT WITHOUT GOOD CAUSE REFUSES TO PARTICIPATE IN A REQUIRED WORK PROGRAM OR REFUSES TO REGISTER FOR EMPLOYMENT, MAINTAIN AN ACTIVE JOB REGISTRATION FILE, OR ACTIVELY PURSUE AND ACCEPT AVAILABLE EMPLOYMENT; AMENDING SECTIONS 53-3-303 AND 53-3-305, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 53-3-303, MCA, is amended to read:

"53-3-303. ~~Recipient----to---register---for---suitable employment~~ Conditions of eligibility. A (1) As a condition of eligibility for general relief assistance, an employable recipient ~~of-general-relief~~ must:

(a) register for employment with the department of labor and industry;

(b) maintain an active job registration file; and ~~must~~

(c) actively pursue and accept available employment within his or her capability.

(2) Refusal without good cause to ~~accept---such employment~~ comply with the requirements of subsection (1) will render the recipient ineligible for ~~further~~ general relief assistance for 3 months following the first refusal and for 6 months following any subsequent refusal."

Section 2. Section 53-3-305, MCA, is amended to read:

"53-3-305. Effect of refusal to ~~enroll~~ participate in ~~job-search,--training,--and--work~~ mandatory programs. Any recipient of general relief who is subject to the provisions of ~~53-3-303--and~~ 53-3-304 [and [section 11, Bill No. , (LC 122)]] and who without good cause refuses to participate in ~~the-job-search-and-training~~ a required program or to perform work assigned to him as therein provided shall lose ~~one-fourth-of-his--next--monthly--benefit--amount--for--each refusal~~ eligibility for general relief for 3 months following the first refusal and for 6 months following any subsequent refusal."

Section 3. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

Section 4. Coordination instruction. If __ Bill No. __ [LC 122] is not passed and approved, the bracketed language in [section 2 of this act] is void.

Section 5. Effective date. [This act] is effective July 1, 1989.

-End-

STATEMENT OF INTENT

____ BILL ____

Proposed Draft

December 7, 1988

A statement of intent is required for this bill because [section 13] grants the department of social and rehabilitation services authority to adopt rules necessary to implement the provisions of this bill.

It is the intent of the legislature that the department establish a program, consistent with the provisions of the federal Family Support Act of 1988, to assure that recipients of aid to families with dependent children obtain the education, training, and employment needed to avoid long-term dependency on welfare. The program should be a mandatory program and, in the biennium beginning July 1, 1990, should include enrollment of at least 7% of all recipients of aid to families with dependent children who are not exempt from participation under [section 6].

In establishing the program, the department should adopt rules for:

(1) determining participation in the program;

(2) providing services and activities to program participants;

(3) determining eligibility for child care assistance under [section 9];

(4) selecting providers of services and activities under the program;

(5) evaluating the performance and effectiveness of the program;

(6) imposing sanctions as provided in [section 10]; and

(7) resolving disputes involving an individual's participation in the program.

The legislature expressly intends that the department comply

with federal requirements and adopt such methods of administration as may be necessary to obtain federal funds for the program in the maximum amount possible.

_____ BILL NO. _____

INTRODUCED BY _____

BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE ON WELFARE

A BILL FOR AN ACT ENTITLED: "AN ACT TO IMPLEMENT THE WORK PROVISIONS OF THE FEDERAL FAMILY SUPPORT ACT OF 1988; TO ESTABLISH A JOB SEARCH, EDUCATION, TRAINING, AND WORK PROGRAM FOR RECIPIENTS OF THE AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM; TO REQUIRE MANDATORY PARTICIPATION OF RECIPIENTS IN THE NEW PROGRAM; TO PROVIDE SANCTIONS AGAINST RECIPIENTS WHO FAIL TO PARTICIPATE IN THE PROGRAM OR TO ACCEPT SUITABLE EMPLOYMENT; AMENDING SECTION 40-4-204, MCA; REPEALING SECTIONS 53-2-701 THROUGH 53-2-709, MCA; AND PROVIDING EFFECTIVE DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Purpose. It is the purpose of [this act] to establish a program, consistent with the provisions of the federal Family Support Act of 1988, to assure that recipients of the aid to families with dependent children program obtain the education, training, and employment needed to avoid long-term welfare dependency.

Section 2. Definitions. As used in [this act], unless the context requires otherwise, the following definitions apply:

(1) "Aid to families with dependent children" has the same meaning as provided in 53-4-201.

(2) "Department" means the department of social and rehabilitation services provided for in Title 2, chapter 15, part 22.

(3) "Family Support Act of 1988" means the federal Family Support Act of 1988, Public Law 100-485, as amended.

(4) "Program" means the program established in [section 3].

Section 3. Program established -- purpose. (1) The department shall establish and administer a job search, education, training, and work program that meets the requirements of section 201 of the federal Family Support Act of 1988 [42 U.S.C. 602(a)(19), 681 through 686].

(2) The purpose of the program is to provide recipients of aid to families with dependent children the education, training, and employment that will help them avoid long-term welfare dependency.

Section 4. Services and activities. (1) Under the program provided for in [section 3], the department shall make available a broad range of services and activities to assist recipients of aid to families with dependent children. Such services and activities may include:

(a) appropriate educational activities, including:

(i) high school education or its equivalent, combined

with training as needed;

(ii) basic and remedial education to help participants achieve a basic literacy level; and

(iii) education for individuals with limited English language proficiency;

(b) job skills training;

(c) job readiness activities to help prepare participants for work;

(d) job development and job placement;

(e) group and individual job search activities as provided for in [42 U.S.C. 682(g)];

(f) on-the-job training;

(g) work supplementation programs as provided for in [42 U.S.C. 682(e)]; and

(h) community work experience programs as provided for in [42 U.S.C. 682(f)].

(2) In addition to the services and activities provided in subsection (1), the department may offer to participants under the program:

(a) postsecondary education in appropriate cases; and

(b) such other education, training, and employment activities as may be determined necessary.

Section 5. Participation requirements. (1) Except as otherwise provided in this section and [section 6], the department may require individuals to participate in the

program as a condition of their eligibility for aid to families with dependent children.

(2) To the extent that the program is available and that state resources permit, the department shall:

(a) require recipients of aid to families with dependent children with respect to whom the state guarantees child care in accordance with section 402(g) of the Social Security Act [42 U.S.C. 602(g)] to participate in the program; and

(b) allow applicants for and recipients of aid to families with dependent children who are not required under subsection (2)(a) to participate in the program to do so on a voluntary basis.

Section 6. Exemptions. (1) An individual may not be required to participate in the program if the individual:

(a) is ill, incapacitated, or of advanced age;

(b) is needed in the home because of the illness or incapacity of another member of the household;

(c) is the parent or other relative who is personally providing care for a child under 3 years of age, except as otherwise provided in administrative rules adopted by the department;

(d) is employed for 30 or more hours a week;

(e) is a child who is under the age of 16 or attends an elementary, secondary, or vocational school on a

full-time basis;

(f) is pregnant and it has been medically verified that the child is expected to be born in the month in which participation in the program would otherwise be required. Such individual may not be required to participate in the program within the 6-month period immediately following that month.

(g) resides in an area of the state where the program is not available; or

(h) is for any other reason exempt from participating in the program pursuant to state or federal regulations.

(2) If a family is eligible for aid to families with dependent children because of the unemployment of the parent who is the principal wage earner, subsection (1)(c) applies to only one parent.

Section 7. Alternatives to program participation. (1) In lieu of participation in the program, the department may require that an individual participate, on a full-time basis, in educational activities directed toward the attainment of a high school diploma or its equivalent if the individual:

(a) is a custodial parent as defined in administrative rules adopted by the department;

(b) has not attained 20 years of age; and

(c) has not successfully completed a high school

education.

(2) Attendance in good standing at an institution of higher education or a school of vocational or technical training may constitute satisfactory participation in the program under [section 5].

Section 8. Assessment -- participation agreement -- case management. (1) The department shall make an initial assessment of the needs, skills, and employability of each participant in the program. On the basis of such assessment, the department shall, in consultation with the participant, develop an employability plan as required in [42 U.S.C. 682(b)(1)(B)].

(2) Following the development of an employability plan for a participant, the department may require the participant to enter into an agreement that specifies such matters as:

(a) the participant's obligations under the program;

(b) the duration of participation; and

(c) the services and activities to be provided under the program during the period of participation.

(3) The department may assign a case manager to each participant and the participant's family. The case manager shall assist the participant and his family in obtaining services that may be needed to assure effective participation in the program.

Section 9. Child care assistance. The department shall provide necessary child care assistance, as provided for in section 301 of the federal Family Support Act of 1988 [42 U.S.C. 602(g)], for each individual participating in the program established under [section 3].

Section 10. Sanctions. An individual who without good cause fails to participate in the program as required or who without good cause refuses to accept suitable employment shall lose eligibility for aid to families with dependent children as provided in [42 U.S.C. 602(a)(19)(G)].

Section 11. Section 40-4-204, MCA, is amended to read:

"40-4-204. Child support -- orders to address health insurance -- warning of withholding procedures. (1) In a proceeding for dissolution of marriage, legal separation, maintenance, or child support, the court may order either or both parents owing a duty of support to a child to pay an amount reasonable or necessary for his support, without regard to marital misconduct, after considering all relevant factors including:

(a) the financial resources of the child;

(b) the financial resources of the custodial parent;

(c) the standard of living the child would have enjoyed had the marriage not been dissolved;

(d) the physical and emotional condition of the child and his educational needs;

(e) the financial resources and needs of the noncustodial parent; and

(f) for the purposes of determining a minimum amount for support, the amount received by children under the AFDC program~~,-as--defined--in--53-2-702~~ provided in Title 53, chapter 4, part 2.

(2) If the court does not order a parent owing a duty of support to a child to pay any amount for the child's support, the court shall state the reasons for not ordering child support.

(3) Each district court judgment, decree, or order establishing a final child support obligation under this title and each modification of a final order for child support must include a provision addressing health insurance coverage in the following cases:

(a) If either party has available through an employer or other organization health insurance coverage for the child or children for which the premium is partially or entirely paid by the employer or organization, the judgment, decree, or order may contain a provision requiring that coverage for the child or children be continued or obtained.

(b) In the event that health insurance required in a child support judgment, decree, or order becomes unavailable to the party who is to provide it through loss or change of employment or otherwise, that party must, in the absence of

an agreement to the contrary, obtain comparable insurance or request that the court modify the requirement.

(c) All temporary child support orders must contain a provision requiring the party who has health insurance in effect for the child or children of the parties to continue the insurance coverage pending final disposition of the case.

(d) The parties may by written agreement provide for the health care coverage required by this section, subject to the approval of the court.

(e) Unless otherwise provided in the decree, the health care coverage required by this section is in addition to and not in substitution, in whole or in part, for the child support obligation.

(4) Each district court judgment or order establishing a child support obligation under this title, whether temporary or final, and each modification of an existing order for child support entered after October 1, 1985, must include a warning statement that if the obligor is delinquent in the payment of support, the obligor's income may be subject to income withholding procedures under Title 40, chapter 5, part 3 or 4. Failure to include a warning statement in a judgment or order does not preclude the use of withholding procedures."

Section 12. Repealer. Sections 53-2-701 through

53-2-709, MCA, are repealed.

Section 13. Rulemaking authority. The department of social and rehabilitation services may adopt rules necessary to implement the provisions of [this act].

Section 14. Compliance with federal requirements. The department shall establish and administer the program in compliance with federal requirements and adopt such methods of administration as may be necessary to obtain federal funds for the program in the maximum amount possible.

Section 15. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 16. Effective dates. (1) [Sections 1 through 12, 14, and 15] are effective July 1, 1990.

(2) [Section 13 and this section] are effective on passage and approval.

-End-

_____ BILL NO. _____

INTRODUCED BY _____

BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE ON WELFARE

A BILL FOR AN ACT ENTITLED: "AN ACT MANDATING THAT THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES PERFORM QUALITY ASSURANCE REVIEWS TO ENSURE THE INTEGRITY OF THE GENERAL RELIEF ASSISTANCE PROGRAM; APPROPRIATING FUNDS; AMENDING SECTION 53-3-112, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 53-3-112, MCA, is amended to read:

"53-3-112. ~~Fraud~~ Quality assurance reviews -- fraud and recovery of overpayments. (1) The department shall conduct quality assurance reviews in counties with state-assumed welfare services to ensure the integrity of the general relief assistance program. Such reviews must include but are not limited to:

(a) review of case records to identify errors resulting in overpayments, underpayments, payments to ineligible persons, and improper denial or termination of assistance to persons eligible to receive general relief;

(b) verification of information used to determine the eligibility of individuals receiving general relief assistance;

(c) home visits;

(d) investigation of possible fraud and abuse; and

(e) reviews to determine if the general relief assistance program is being administered in compliance with state laws and department rules and policies.

~~(1)~~(2) The department shall deny general relief for a reasonable period of time to any household determined to have received any assistance by means of fraud.

~~(2)~~(3) The department or its agent may recover or offset any amounts of general relief made available to a household which, because of fraud or ~~mistake~~ error, are above the amounts that should have been provided."

Section 2. Appropriation. There is appropriated from the general fund to the department of social and rehabilitation services for the biennium ending June 30, 1991, the following sums of money to be used for the purpose of administering [this act]:

FY 1990	FY 1991
$49,986	$48,886

Section 3. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

Section 4. Effective date. [This act] is effective July 1, 1989.

-End-

_____ BILL NO. _____

INTRODUCED BY _____

BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE ON WELFARE

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE AND CONTINUE A JOB SEARCH, TRAINING, AND WORK PROGRAM FOR EMPLOYABLE RECIPIENTS OF GENERAL RELIEF ASSISTANCE; TO CLARIFY THE PURPOSE OF THE PROGRAM; AMENDING SECTION 53-3-304, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 53-3-304, MCA, is amended to read:

"53-3-304. Power to require ~~recipient~~ employable recipients to participate in job search, training, and work programs. (1) The department shall cooperate with the department of labor and industry and other ~~designated~~ agencies to initiate, promote, and develop job search, training, and work programs that will ~~contribute--to--the employability---of~~ provide employment, training, and experience for persons receiving general relief under the provisions of this chapter. These programs must be designed to:

(a) preserve and improve the work habits and ~~job-finding~~ skills of recipients for whom jobs are not otherwise immediately available; and

(b) provide training and experience that will enable recipients to find regular, sustainable employment.

(2) For each county with state-assumed welfare services, the department shall contract with the department of labor and industry or other ~~designated~~ agencies to institute a ~~job-search,--training,--and--work~~ program ~~that provides--able-bodied--general--relief--recipients--with-the necessary-job-finding-skills-to-seek-unsubsidized-employment independently~~ as provided for in subsection (1).

(3) In a county with state-assumed welfare services, an ~~able-bodied~~ employable recipient of general relief shall enroll in a structured job search and training program at an employment office or other site designated by the department. The program must include but is not limited to the following elements:

(a) assessment and testing;

(b) an employability plan;

(c) a requirement that recipients participate for a minimum of 40 hours a week in a combination of activities, including work as provided in subsection (4), unless they are prevented, with good cause, from participating in such activities;

~~(c)~~(d) remedial education or job skills training, if it is called for in the employability plan and if it provides for immediate referral to an appropriate Job

Training Partnership Act program;

~~(d)~~(e) a job readiness and job search program that must include but is not limited to:

(i) self-assessment and occupational testing;

(ii) instruction in completing applications, writing resumes, and preparing for interviews;

(iii) identification of and contact with potential employers; ~~and~~

(iv) participation in simulated job interviews; and

(v) intensive job search activity and prompt placements for recipients who are ready to enter the work force;

~~(e)~~(f) a supervised effort to find employment; ~~and~~

~~(f)~~(g) efforts to address barriers to employment~~.~~;

(h) an expectation that recipients must be employed at the end of the program; and

(i) followup and monitoring of program performance.

(4) (a) In addition to the training required in subsection (3), if a public agency or a private nonprofit agency has work available which a recipient of general relief is capable of performing or the department of social and rehabilitation services is required to operate a work program under the provisions of 53-2-822, then the county department of public welfare or the department of social and rehabilitation services may require a recipient to perform

work at the minimum wage or may pay a recipient at the prevailing rate of wages paid in that county by that agency for similar work, to be paid from the county poor fund or state funds, in place of granting him general relief.

(b) No currently employed worker may be displaced by any recipient (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits).

(c) No recipient may be employed when any other person is on layoff from the same or any substantially equivalent job or when the employer has terminated the employment of any regular employee or otherwise reduced its workforce with the intention of filling the vacancy so created by hiring a recipient whose wages are subsidized under this section.

(5) The county department of public welfare or the department of social and rehabilitation services, as the case may be, shall provide coverage under the Workers' Compensation Act for those recipients of general relief working under the provisions hereof and may enter into such agreements with the division of workers' compensation of the department of labor and industry as may be necessary to carry out the provisions of this section.

~~(6)--A recipient who has completed the assessment and testing portions of the program and has developed an employability plan shall participate in the job readiness~~

and-job-search-program-provided-for-in-subsection-(3)(d)-for at--least--80--hours-in-any-5-week-period-and-shall-spend-at least-8--hours--a--week--in--a--supervised--effort--to--find employment.

(7)--A--recipient--who--has--completed--the--job-search program-provided-for-in-subsection-(3)-shall:

(a)--continue-to-spend-at-least-8-hours--a--week--in--a supervised-effort-to-find-employment;-and

(b)--for--the--duration--of-his-eligibility-for-general relief,-spend--32--hours--a--week,--as--called--for--in--the employability-plan,-in:

(i)--remedial-education;

(ii)-counseling;

(iii)-job-skills-training;

(iv)-work--for--a--public-agency-or-a-private-nonprofit agency,-as-required-in-subsection-(4);-or

(v)--job-seeking-or-other-related-activities.

(8)--Nothing-in-this-chapter-requires-a--recipient--to:

(a)--participate-in-the-job-search-and-training-program required---by--subsection--(3)--or--to--perform--work--under subsection-(4)-if-the-training-or-work-site-is-more-than--10 miles--from--his--residence,--unless-the-department-provides transportation---or----reimburses----the----recipient----for transportation-costs;-or

(b)--continue-the-activities-required-by-subsection-(7)

for-longer-than-6-months.

(9)(6) Where a labor organization represents a substantial number of employees who are engaged in similar work or training in the area where it is proposed to assign the recipient to work or training, an opportunity must be provided for that organization to submit comments with respect to such proposal.

(10)(7) No work program may impair existing contracts for services or collective bargaining agreements, and no work program that would be inconsistent with the terms of a collective bargaining agreement may be undertaken without the written concurrence of the labor organization and employer concerned.

(8) No program established under this section may include any political, partisan, or lobbying activities. The department shall deny funds to any program involved in such activities."

Section 2. Audit. The legislative auditor shall conduct a performance audit of the program provided in 53-3-304 and report the results of the audit to the 52nd legislature.

Section 3. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

Section 4. Effective date. [This act] is effective

1 July 1, 1989.

-End-

A36

_____ BILL NO. _____

INTRODUCED BY _____

BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE ON WELFARE

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE GREATER FINANCIAL INCENTIVES FOR GENERAL RELIEF ASSISTANCE RECIPIENTS TO OBTAIN EMPLOYMENT BY ALLOWING A GREATER EARNED INCOME DISREGARD, BY EXTENDING ELIGIBILITY FOR GENERAL RELIEF MEDICAL ASSISTANCE IF ELIGIBILITY FOR GENERAL RELIEF ASSISTANCE IS LOST DUE TO EMPLOYMENT, AND BY ELIMINATING THE INCOME SPENDDOWN REQUIREMENT FOR GENERAL RELIEF MEDICAL ASSISTANCE; AMENDING SECTIONS 53-3-205, 53-3-206, AND 53-3-311, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 53-3-205, MCA, is amended to read:

"53-3-205. Eligibility for general relief. (1) A person or persons constituting a household may receive general relief assistance for basic necessities if the household is determined to be eligible under the provisions of this section and is in need of such assistance as a result of their infirmity, misfortune, or indigency.

(2) A household is eligible for general relief if the household income, exclusive of the ~~first $58 earned each month by each household member~~ earned income disregard provided for in subsection (3), does not exceed that set forth in the following table:

Number of Persons in Household	Monthly Income Standard
1	$212
2	282
3	354
4	426
5	501
6	570
7	642
8	713
9	785
10 or more	857

(3) For 4 consecutive months, the first $30 plus one-third of the remainder of the total income earned each month by each household member who is a current recipient must be disregarded in determining a household's eligibility for general relief assistance. If the total household income, exclusive of this amount, exceeds that set forth in the table in subsection (2), the household is not eligible for general relief assistance. A current recipient is one who has been receiving general relief assistance for at least 1 complete calendar month.

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{3}(4) Able-bodied persons without dependent minor children living in the household are not eligible for nonmedical general relief assistance, except as provided in 53-3-209.

{4}(5) (a) When the household's income exceeds the monthly income standard for a household of that size because of receipt of lump-sum income, the household will be ineligible for general relief for the full number of months, beginning with the month of receipt, derived by dividing the total of the lump-sum income and other income by the monthly income standard for a household of that size. Any income remaining from this calculation will be considered as income in the first month following the period of ineligibility.

(b) The period of ineligibility may be recalculated if the household size changes or if a portion of the lump sum was used to pay medical bills for a serious medical condition.

(c) Ineligibility due to the receipt of a lump sum does not preclude eligibility for general relief medical assistance.

{5}(6) All applicants for and recipients of general relief assistance who reside in the same residence are considered as one household.

{6}(7) Prospective income that is reasonably certain to be received by the household during an eligibility period

must be considered when determining eligibility.

{7}(8) The following resources of a household must be excluded from consideration of resources for eligibility purposes:

(a) the domicile of the household, including necessary appurtenant land not exceeding 10 acres;

(b) a motor vehicle that has no more than $1,500 in equity value;

(c) personal items, clothing, household furniture, appliances, and other essential household items, the total equity value of which does not exceed resource eligibility limits established by rule; and

(d) tools of a trade that are essential to the current or future employment of a household member.

{8}(9) A person who is committed or sentenced by legal process to a state institution or a secure facility or who is incarcerated in a secure facility pending resolution of legal process is not eligible for general relief.

{9}(10) A person who resides for a period of 1 day or more in any state or federally operated institution or residence is not eligible for general relief for the period of that residency.

{10}(11) For the purposes of an eligibility determination, an applicant for or recipient of general relief may be requested to produce all financial and other

information concerning the household.

~~(11)~~(12) Whenever practical, an eligibility determination must be made within 30 days of the date of application and the applicant must be notified in writing of the eligibility determination and the reasons for the determination.

~~(12)~~(13) An alien determined to be illegally within the United States is not eligible for general relief."

Section 2. Section 53-3-206, MCA, is amended to read:

"53-3-206. Eligibility for general relief medical assistance. (1) In order to be considered for eligibility for general relief medical assistance, a person must be found to have a serious medical condition.

(2) Eligibility for general relief medical assistance must be determined as provided in this section and 53-3-205. A person with a serious medical condition must apply for general relief medical assistance prior to the provision of medical services or within 90 days of the date the medical service is first provided. Eligibility is determined as of the date medical service is first provided.

(3) All persons who reside in the same residence and are legally related to or responsible for each other are considered to be one household for purposes of determining general relief medical assistance.

(4) All individual or household resources must be used

to offset medical obligations except those excluded in 53-3-205~~(7)~~(8).

(5) To determine eligibility for county general relief medical assistance, a county welfare board may promulgate rules to establish the circumstances under which persons are unable to pay for their medical aid and hospitalization. However, no household with an income exceeding 300% of the amount set forth in 53-3-205(2) is eligible for such medical assistance.

(6) In a county with state-assumed welfare services:

(a) covered medical services must be provided at no cost to the person residing in a household if the average household monthly income ~~that is~~ after consideration of the earned income disregard provided for in 53-3-205(3), reasonably certain to be received in a 12-month period beginning with the month the medical service was provided, does not exceed the amount in 53-3-205(2);

(b) a person is not eligible for medical services if the household in which he resides has an average monthly income after consideration of the earned income disregard provided for in 53-3-205(3), reasonably certain to be received in a 12-month period beginning with the month the medical service was provided, in excess of that set forth in the following table:

Monthly

Family Size	Income Level
1	$ 287
2	433
3	526
4	618
5	714
6	804
7	896
8	988
9	1,081
10	1,173
11	1,194
12	1,215
13	1,236
14	1,256
15	1,277
16 or more	1,298

~~(c)--if-the-average-household-monthly-income-reasonably certain-to-be-received-in-a-12-month-period--beginning--with the--month--the--medical-service-was-provided-is-between-the amount-in-53-3-205(2)-and-the-monthly-income-level-set-forth in-subsection-(b),-a--household--must--first--incur--covered medical--costs--equal--to-the-difference-between-its-average monthly--income--and--the---monthly---income---standard---in 53-3-285(2)-before-medical-assistance-is-provided.~~

(7) Notwithstanding the other provisions of this section, in a county with state-assumed welfare services, a person whose eligibility for general relief assistance is terminated because of earned income from employment may continue to receive general relief medical assistance for 1 month."

Section 3. Section 53-3-311, MCA, is amended to read:

"53-3-311. Amount of general relief for basic necessities. (1) In a county without state-assumed welfare services, the amounts of general relief for basic necessities must be determined and adopted at the discretion of the county welfare board.

(2) In a county with state-assumed welfare services, the amount of general relief for basic necessities available to an eligible household is the amount listed for the same size household in the table in 53-3-205(2), less income and resources not excluded in 53-3-205~~(7)~~(3) and (8)."

Section 4. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

Section 5. Effective date -- applicability. [This act] is effective on passage and approval and applies to eligibility and grant determinations beginning July 1, 1989.

-End-

_____ BILL NO. _____

INTRODUCED BY _____

BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE ON WELFARE

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE PAYMENT OF GENERAL RELIEF ASSISTANCE IN STATE-ASSUMED COUNTIES BY VOUCHERS OR VENDOR PAYMENTS DURING THE INITIAL 30 DAYS OF ASSISTANCE AND TO ALLOW SUCH PAYMENT IN ALL COUNTIES AT OTHER DETERMINABLE TIMES; AMENDING SECTION 53-3-309, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 53-3-309, MCA, is amended to read:

"53-3-309. Form of relief. (1) (a) The choice as to the form or forms of relief provided is at the discretion of the county welfare department in counties without state-assumed welfare services ~~or--the--department-if-the state-has-assumed-responsibility-for-the-welfare-services-in a-county.~~

(b) Except as provided in subsection (2), the choice as to the form or forms of relief provided is at the discretion of the department in counties with state-assumed welfare services.

(c) The county or department may use vouchers or vendor payments rather than cash payments if the county welfare department or the department finds that:

(i) a recipient is dissipating general relief assistance allowances instead of using them for the intended purposes; or

(ii) for any other reason, it is better for the recipient and his family to receive the allowances through vouchers or vendor payments.

(2) In a county with state-assumed welfare services, all general relief assistance disbursements for the initial 30 days of assistance must be by vouchers or vendor payments that subsequently must be reimbursed.

(3) (a) A voucher or vendor payment must be written in a form that allows the goods and services to be provided by any regular vendor in such goods and services.

(b) A voucher or vendor payment may not be used to purchase or obtain alcohol, tobacco, pet food, or any other item that the department by rule disallows."

Section 2. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

Section 3. Effective date -- applicability. [This act] is effective on passage and approval and applies to eligibility and grant determinations beginning July 1, 1989.

-End-

Montana Legislative Council

STATEMENT OF INTENT

____ BILL ____

Proposed Draft

December 16, 1988

A statement of intent is needed for this bill because the department of revenue is required by [section 3] to adopt uniform child support guidelines for use by judges and other officials who have the power to determine child support awards within this state. The department initially shall adopt and promulgate the uniform child support guidelines recommended by the Montana supreme court at 44 State Reporter 828 (1987). Thereafter, the department shall periodically review those guidelines to determine if they are appropriate to determine adequate minimum child support amounts. If the department determines that the guidelines are no longer adequate, it shall amend them, after considering the factors set forth in 40-4-204(2) and 40-6-116(5).

_____ BILL NO. _____

INTRODUCED BY _____

BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE ON WELFARE

A BILL FOR AN ACT ENTITLED: "AN ACT TO ENSURE THAT PARENTS FULFILL THE DUTY TO SUPPORT THEIR CHILDREN BY PROVIDING FOR A PRESUMPTIVE OBLIGATION OF SUPPORT IN CERTAIN LEGAL PROCEEDINGS; TO REQUIRE CONSIDERATION OF UNIFORM GUIDELINES TO ESTABLISH A MINIMUM SUPPORT LEVEL; TO REQUIRE PATERNITY CHILD SUPPORT ORDERS TO INCLUDE A PROVISION COVERING HEALTH INSURANCE IN CERTAIN CASES; TO PROVIDE FOR CHILD SUPPORT COLLECTION THROUGH AUTOMATIC INCOME WITHHOLDING; TO GRANT THE DEPARTMENT OF REVENUE THE AUTHORITY TO CHARGE FEES IN CASES IN WHICH AN OBLIGOR'S FAILURE OR REFUSAL TO PAY SUPPORT REQUIRES THE DEPARTMENT TO ACT; AMENDING SECTIONS 40-4-204, 40-5-203, 40-5-214, 40-5-401, 40-5-404, 40-5-411 THROUGH 40-5-417, AND 40-6-116, MCA; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 40-4-204, MCA, is amended to read:

"**40-4-204. Child support -- orders to address health insurance** ~~-- warning of~~ automatic **withholding procedures** of child support. (1) In a proceeding for dissolution of marriage, legal separation, maintenance, or child support,

the court ~~may~~ shall order either or both parents owing a duty of support to a child to pay an amount reasonable or necessary for his support, without regard to marital misconduct~~,after considering~~.

(2) The court shall consider all relevant factors, including:

(a) the financial resources of the child;

(b) the financial resources of the custodial parent;

(c) the standard of living the child would have enjoyed had the marriage not been dissolved;

(d) the physical and emotional condition of the child and his educational and medical needs;

(e) the financial resources and needs of the noncustodial parent; and

(f) ~~for the purposes of determining a minimum amount for support, the amount received by children under the AFDC program, as defined in 53-2-702.~~ the age of the child;

(g) the cost of day care for the child;

(h) any custody arrangement that is ordered or decided upon; and

(i) the needs of any person, other than the child, whom either parent is legally obligated to support.

(3) (a) Whenever a court issues or modifies an order concerning child support, the court shall determine the child support obligation by applying the standards in this

section and the uniform child support guidelines adopted by the department of revenue pursuant to [section 3], unless the court finds by clear and convincing evidence that the application of the standards and guidelines is unjust to the child or to any of the parties or is inappropriate in that particular case.

(b) If the court does not apply these standards and guidelines to determine child support, it shall state its reasons for finding that the application of such standards and guidelines is unjust to the child or a party or is inappropriate in that particular case.

[2](c) If the court does not order a parent owing a duty of support to a child to pay any amount for the child's support, the court shall state ~~the~~ its reasons for not ordering child support.

[3](4) Each district court judgment, decree, or order establishing a final child support obligation under this title and each modification of a final order for child support must include a provision addressing health insurance coverage in the following cases:

(a) If either party has available through an employer or other organization health insurance coverage for the child or children for which the premium is partially or entirely paid by the employer or organization, the judgment, decree, or order may contain a provision requiring that

coverage for the child or children be continued or obtained.

(b) In the event that health insurance required in a child support judgment, decree, or order becomes unavailable to the party who is to provide it, through loss or change of employment or otherwise, that party must, in the absence of an agreement to the contrary, obtain comparable insurance or request that the court modify the requirement.

(c) All temporary child support orders must contain a provision requiring the party who has health insurance in effect for the child or children of the parties to continue the insurance coverage pending final disposition of the case.

(d) The parties may by written agreement provide for the health care coverage required by this section, subject to the approval of the court.

(e) Unless otherwise provided in the decree, the health care coverage required by this section is in addition to and not in substitution, in whole or in part, for the child support obligation.

[4](5) (a) ~~Each~~ Except as provided in subsection (5)(b), each district court judgment, decree, or order establishing a child support obligation under this title, whether temporary or final, and each modification of an existing child support order must:

(i) provide that the amount of child support must be

withheld from the obligor's income and paid to the department pursuant to procedures established by the department under Title 40, chapter 5, part 4; and

(ii) include the obligor's social security number and the name and address of the obligor's employer and of any other payor of income to the obligor.

(b) Income is not subject to automatic withholding if:

(i) the obligee or obligor demonstrates and the court finds that there is good cause not to require automatic income withholding; or

(ii) the obligee and obligor agree in writing to an alternative arrangement regarding the payment of child support that provides sufficient security to ensure compliance with their agreement. The security is in addition to the child support obligation.

(c) When a judgment, decree, or order for child support is entered or modified and automatic income withholding is ordered, an obligee who is not a recipient of public assistance shall apply for the support enforcement services of the department pursuant to Title IV-D of the Social Security Act for the collection of support through automatic income withholding under Title 40, chapter 5, part 4. The department shall accept the application. Pending an application, the department shall immediately implement automatic income withholding and hold any amounts collected

in trust for the obligee until the obligee makes application.

(d) When automatic income withholding is ordered under subsection (5)(a), the clerk of court shall immediately forward a copy of the order to the department.

(e) If an obligor is not subject to income withholding or is exempted from income withholding, the district court judgment or order ~~establishing a child support obligation under this title, whether temporary or final, and each modification of an existing order for child support entered after October 1, 1985,~~ must include a warning statement that if the obligor is delinquent in the payment of support, the obligor's income may be subject to income withholding procedures under Title 40, chapter 5, part 3 or 4. Failure to include a warning statement in a judgment or order does not preclude the use of withholding procedures."

Section 2. Section 40-6-116, MCA, is amended to read:

"40-6-116. Judgment or order. (1) The judgment or order of the court determining the existence or nonexistence of the parent and child relationship is determinative for all purposes.

(2) If the judgment or order of the court is at variance with the child's birth certificate, the court shall order that a substitute birth certificate be issued under 40-6-123.

(3) (a) The judgment or order may contain any other provision directed against the appropriate party to the proceeding concerning ~~the duty of support,~~ the custody and guardianship of the child, visitation privileges with the child, the furnishing of bond or other security for the payment of the judgment, or any other matter in the best interest of the child.

(b) Except when the financial responsibility of a responsible parent is in the process of being determined pursuant to the administrative procedure provided in 40-5-225, the judgment or order must contain a provision concerning the duty of child support.

(c) The judgment or order may direct the father to pay the reasonable expenses of the mother's pregnancy and confinement.

(4) (a) Support judgments or orders ordinarily shall be for periodic payments which may vary in amount.

(b) In the best interest of the child, a lump-sum payment or the purchase of an annuity may be ordered in lieu of periodic payments of support.

(c) The court may limit the father's liability for past support of the child to the proportion of the expenses already incurred that the court deems just.

(5) In determining the amount to be paid by a parent for support of the child and the period during which the

duty of support is owed, a court enforcing the obligation of support shall consider all relevant facts, including:

(a) the needs of the child, including his medical needs;

(b) the standard of living and circumstances of the parents;

(c) the relative financial means of the parents;

(d) the earning ability of the parents;

(e) the need and capacity of the child for education, including higher education;

(f) the age of the child;

(g) the financial resources and the earning ability of the child;

(h) the responsibility of the parents for the support of others; ~~and~~

(i) the value of services contributed by the custodial parent~~.~~;

(j) the cost of day care for the child; and

(k) any custody arrangement that is ordered or decided upon.

(6) (a) Whenever a court issues or modifies an order concerning child support, the court shall determine the child support obligation by applying the standards in this section and the uniform child support guidelines adopted by the department of revenue pursuant to [section 3], unless

the court finds by clear and convincing evidence that the application of the standards and guidelines is unjust to the child or to any of the parties or is inappropriate in that particular case.

(b) If the court does not apply these standards and guidelines to determine child support, it shall state its reasons for finding that the application of such standards and guidelines is unjust to the child or a party or is inappropriate in that particular case.

(c) If the court does not order a parent owing a duty of support to a child to pay any amount for the child's support, the court shall state its reasons for not ordering child support.

(7) The judgment or order concerning child support and each modification of a judgment or order for child support must include a provision addressing health insurance coverage in the following cases:

(a) If either party has available through an employer or other organization health insurance coverage for the child or children for which the premium is partially or entirely paid by the employer or organization, the judgment or order may contain a provision requiring that coverage for the child or children be continued or obtained.

(b) In the event that health insurance required in a child support judgment or order becomes unavailable to the

party who is to provide it, through loss or change of employment or otherwise, that party shall, in the absence of an agreement to the contrary, obtain comparable insurance or request that the court modify the requirement.

(c) The parties may by written agreement provide for the health care coverage required by this section, subject to the approval of the court.

(d) Unless otherwise provided in the decree, the health care coverage required by this section is in addition to and not in substitution, in whole or in part, for the child support obligation.

(8) (a) Except as provided in subsection (8)(b), each district court judgment or order establishing a child support obligation under this part, whether temporary or final, and each modification of an existing child support order must:

(i) provide that the amount of child support must be withheld from the obligor's income and paid to the department pursuant to procedures established by the department under Title 40, chapter 5, part 4; and

(ii) include the obligor's social security number and the name and address of the obligor's employer and of any other payor of income to the obligor.

(b) Income is not subject to automatic withholding if:

(i) the obligee or obligor demonstrates and the court

finds that there is good cause not to require automatic income withholding; or

(ii) the obligee and obligor agree in writing to an alternative arrangement regarding the payment of child support that provides sufficient security to ensure compliance with their agreement. The security is in addition to the child support obligation.

(c) When a judgment or order for child support is entered or modified and automatic income withholding is ordered, an obligee who is not a recipient of public assistance shall apply for the support enforcement services of the department pursuant to Title IV-D of the Social Security Act for the collection of support through automatic income withholding under Title 40, chapter 5, part 4. The department shall accept the application. Pending an application, the department shall immediately implement automatic income withholding and hold any amounts collected in trust for the obligee until the obligee makes application.

(d) When automatic income withholding is ordered under subsection (8)(a), the clerk of court shall immediately forward a copy of the order to the department."

Section 3. Child support guidelines -- periodic review. (1) The department shall adopt uniform child support guidelines to be used to determine minimum child support

amounts. In addition to giving notice and publicizing the rules as provided in the Montana Administrative Procedure Act, the department shall give notice to the supreme court, the district courts, and the state bar of Montana prior to adopting the guidelines.

(2) The guidelines must consider the factors set forth in 40-4-204(2) and 40-6-116(5).

(3) At least once every 4 years, the department shall:

(a) review the uniform child support guidelines employed to determine child support obligations to ensure that their application results in the determination of appropriate child support award amounts; and

(b) propose any appropriate modification to the legislature.

Section 4. Section 40-5-214, MCA, is amended to read:

"40-5-214. Scale of suggested minimum contributions. (1) The department shall establish a scale of suggested minimum contributions to assist counties and courts in determining the amount that a parent should be expected to contribute toward the support of his child under this part. ~~The scale shall:~~

~~(a) include consideration of gross income;~~

~~(b) authorize an expense deduction for determining net income;~~

~~(c) designate other available resources to be~~

~~considered;~~

~~(d)--specify---the---circumstances---which---should--be considered-in-reducing-support-contributions-on-the-basis-of hardship.~~ The scale must be based on the uniform child support guidelines adopted by the department under [section 3].

(2) ~~The-department-shall-accept-and-compile--pertinent and--reliable-information-from-any-available-source-in-order to-establish-a-minimum--scale--of--suggested--contributions.~~ Copies of the scale ~~shall~~ must be made available to courts, county offices, county attorneys, and upon request, to any other state or county officer or agency engaged in the administration or enforcement of this part. Attorneys admitted to practice in Montana may have access to the minimum scale ~~of-suggested-contribution.~~

~~(3)--No--county,--court,--officer,--or--agency--may--be required-to-use-this-scale.~~"

Section 5. Payor and obligor notice. (1) When a person is hired for employment, the payor shall inquire whether or not the person has a child support obligation that is required by law to be withheld from income and the terms, if any, of the order. The person shall disclose this information at the time of hiring. If a payor fails to make this inquiry, the payor is liable to the department for any amount up to the accumulated amount the payor should have

withheld and delivered if it is not paid by the obligor.

(2) If a person discloses that he owes child support that is required to be withheld, the payor shall begin withholding according to the terms of the order and this part.

(3) At any time an obligor is subject to automatic income withholding, the obligor shall disclose to a payor that the obligor owes child support in order that the payor may begin withholding according to the terms of the order and this part. If the obligor does not make such disclosure, the failure to disclose may be considered a contempt of the district court.

Section 6. Section 40-5-401, MCA, is amended to read:

"40-5-401. Short title. This part may be cited as the "Child Support Enforcement Act ~~of-1985~~"."

Section 7. Section 40-5-404, MCA, is amended to read:

"40-5-404. ~~Remedies-additional-to-those--now--existing~~ Other remedies available. The ~~remedy~~ remedies provided in this part ~~is~~ are in addition to and not in substitution for any other remedy that may otherwise be available to the department, and the department may simultaneously pursue other remedies to enforce a support obligation or to collect support arrearages."

Section 8. Section 40-5-411, MCA, is amended to read:

"40-5-411. Income withholding. (1) Whenever If an

obligation for support is being enforced by the department pursuant to Title IV-D of the Social Security Act and the obligation has been established ~~by--order--of-a-court~~ as required by law or administrative process, income due or to become due within this state to the obligor is subject to withholding procedures under this part if:

(a) except as provided in 40-4-204 and 40-6-116, a support obligation is initially decreed and ordered or modified after January 1, 1990, by a district court or administrative process, regardless of whether child support payments are in arrears; or

(b) the obligor is found to owe a combination of unpaid child support under a support order in an amount equal to or in excess of 1 month's support payment.

(2) When the requirements of this part have been met, the department, without necessity for amendment of the support order or further order by a court or other entity, shall issue an order directing the obligor's employer or other payor to withhold and deliver to the department such amount of the obligor's income as will be sufficient to meet the support obligation imposed by the support order and to defray arrearages, if any, due when the withholding order takes place.

(3) The provisions for income withholding under this part take precedence over any other law or court order."

Section 9. Section 40-5-412, MCA, is amended to read:

"40-5-412. Initiation of income withholding procedures. (1) ~~in-each-case--in--which--the--department--is enforcing--a-support-order-assigned-to-the-state-pursuant-to 53-2-613-or-in-which-the-department-is-collecting-support-on behalf-of-an-obligee-who--has--applied--for--services--under 40-5-203,-the-department-shall-monitor-and-track-all-support payments-required-by-the-support-order.-If-at-any-time-these records--indicate--that--the-obligor-owes-any-combination-of unpaid-support-equal-to-or-in-excess-of--1--month's--support payment,--the-department-shall-commence-withholding-from-the obligor's-income.~~ In a case concerning a support obligation referred to in 40-5-411, the department shall immediately issue an order under 40-5-415 for the payment of current support.

(2) In any other case, the department shall monitor and track all support payments required by the support order. If at any time these records indicate that the obligor owes a combination of unpaid support equal to or in excess of 1 month's support, the department shall commence proceedings to initiate withholding of the obligor's income as provided in this part.

~~(2)~~(3) To accomplish the purpose of subsection ~~(1)~~(2), the department by written notice to the obligor may direct an obligor who does not owe unpaid child support equal to or

in excess of 1 month's support payment to pay all support through the department, notwithstanding any court order directing payments to be made to the obligee or clerk of court.

~~(3)~~(4) Whenever an obligation for support is paid through the support enforcement and collections unit of the department, the department must forward payment to the obligee within 10 days of the department's receipt of payment from the obligor."

Section 10. Section 40-5-413, MCA, is amended to read:

"40-5-413. Notice of intent to withhold income. (1) Prior to service of an initial order ~~on--the--payor--to commence-income-withholding~~ or a modification of an existing order on the payor under 40-5-415, the department shall serve upon the obligor a notice of the intended ~~withholding~~ action~~.~~ if:

(a) the department previously has not issued an order to withhold and it has determined the obligor owes a combination of unpaid support equal to or in excess of 1 month's support;

(b) additional arrearages have accrued subsequent to the issuance of an order to withhold; or

(c) immediate withholding has commenced for current support and there are arrearages due for a period prior to entry of the order to withhold.

(2) The notice must contain a statement:

(a) of the amount to be withheld, including a computation showing the period and total amount of the arrearages as of the date of the notice;

(b) that withholding applies to all current and subsequent payors;

(c) of the obligor's right to a hearing under 40-5-414 to contest the implementation of income withholding or modification of an existing order on the ground that ~~withholding,-including--the--amounts--to--be--withheld,~~ the intended action is not proper because of mistake of fact; and

(d) of the period of time within which the obligor must request a hearing and that failure to request the hearing within the time limit will result in income withholding orders being served upon the payor for the amount stated in the notice.

~~(2)~~(3) The notice must be served upon the obligor personally or by certified mail."

Section 11. Section 40-5-414, MCA, is amended to read:

"40-5-414. Hearing. (1) The obligor may within 10 days of being served with notice of the intended ~~income withholding~~ action under 40-5-413 file with the department a written request for an administrative hearing to be held pursuant to the contested case provisions of Title 2,

chapter 4, part 6.

(2) ~~If~~ In a case initiated because an arrearage has accrued or because additional income is to be withheld to satisfy additional arrearages and in which the obligor requests a hearing within the time allowed, ~~income withholding~~ the intended action may not take effect until the conclusion of the hearing or the date of the hearing if the obligor fails to appear at a scheduled hearing.

(3) Venue for the administrative hearing may be in the county where the obligor resides if the obligor resides in this state, the county in which the payor or the payor's agent is located, or the county in which the department or any of its regional offices is located.

(4) The administrative hearing must be held by teleconferencing methods unless the obligor or the department expressly requests an in-person hearing before the hearing examiner.

(5) For purposes of the hearing process, arrearages of support must be computed on the basis of the amount owed and unpaid on the date the obligor was served with the notice of intent to withhold income, and the fact that the obligor may have later paid the arrearage does not remove from the hearing examiner the authority to direct the department to order income withholding.

(6) ~~The~~ In a case initiated because an arrearage has

accrued or because additional income is being withheld to satisfy additional arrearages, the obligor, within 45 days of service of the notice of intent to withhold income, must be informed of the hearing decision on whether income withholding will take place.

(7) If the obligor fails to request a hearing within 10 days or fails to appear at a scheduled hearing or if the hearing examiner determines that the obligor owes a combination of unpaid support equal to or in excess of 1 month's support obligation, the department shall proceed with the intended action in accordance with 40-5-415."

Section 12. Section 40-5-415, MCA, is amended to read:

"40-5-415. Order to withhold income. (1) ~~If---the obligor--fails--to-request-a-hearing-within-10-days-or-fails to-appear-at-a-scheduled-hearing-or-if-the-hearing--examiner determines--that--the--obligor--owes-a-combination-of-unpaid support-equal-to-or-in-excess-of-1-month's-support--payment,~~ When the requirements of this part have been met, the department shall immediately serve an order or modification order to withhold and deliver income upon any payor or combination of payors. The order must:

(a) direct the payor and successor payors to withhold from the obligor's income each month the amount specified in the order if sufficient funds are available;

(b) direct the payor to deliver the amount withheld to

the department in the same month in which the funds were withheld;

(c) state that the order is binding on the payor until further notice by the department; and

(d) state the rights and duties of the payor under this part.

(2) An order or modification order to withhold and deliver the obligor's income made under this section is binding upon the payor immediately upon service of the order upon the payor. Service of the order or modification order to withhold may be made either personally or by certified mail.

(3) Whenever there is more than one payor, the department may, in its discretion, apportion the total amount to be withheld each month among payors."

Section 13. Section 40-5-416, MCA, is amended to read:

"40-5-416. Determination of amount of income to be withheld. (1) (a) Except--as Subject to the limitations provided in subsection (2), the amount of funds to be withheld each month from the obligor's income must be:

~~(a)~~ the amount of money necessary to pay current installments of support as they become due and payable.~~;~~ ~~plus~~

(b) If income is being withheld to satisfy an arrearage, the amount of funds to be withheld must include

the greater of:

(i) the amount of money ~~which~~ that, when deducted in equal amounts each month, will pay all outstanding support arrearages and interest, if any, within 2 years; ~~plus~~ or

(ii) 25% of the obligor's income.

(c) If income is being withheld to satisfy an arrearage, the department may allow a fee not to exceed $5 each month, which may be withheld by the payor as compensation for the administrative costs of each withholding.

(2) The maximum amounts withheld from the obligor's wages or salaries may not exceed the maximum amount permitted under section 303(b) of the federal Consumer Credit Protection Act, 15 U.S.C. 1673(b).

(3) At any time, if the obligor can show that substantial hardship will result if the maximum permissible withholding is implemented or continued, the department for cause shown may in its discretion determine a lesser amount to be withheld each month in satisfaction of support arrearages."

Section 14. Section 40-5-417, MCA, is amended to read:

"40-5-417. Modification or termination of withholding orders. (1) The department may at any time modify the order to withhold income to:

(a) reflect payment in full of the arrearages by

income withholding or otherwise;

(b) recognize an increase or decrease in the support order; or

(c) indicate any other reason the amount to be withheld is to be reduced or changed.

(2) If an arrearage occurs while the department is collecting an amount of money necessary to pay current installments of support as they become due and payable, the department may adjust the amount of income required to be withheld to also satisfy the arrearage, as provided in this part.

~~(2)~~(3) An income withholding order terminates only when the department is no longer authorized under the law to collect support or, when appropriate, services rendered under 40-5-203 have come to an end or when the obligation to pay support is terminated and all arrearages are paid in full, whichever occurs first."

Section 15. Section 40-5-203, MCA, is amended to read:

"40-5-203. Support enforcement services. (1) The department may accept applications for support enforcement services on behalf of persons who are not recipients of public assistance and may take appropriate action to establish or enforce support obligations against persons owing a duty to pay support.

(2) The department may establish by rule reasonable

standards necessary to limit applications for support enforcement services. These standards shall take into account the earnings, income, and other resources already available to support the person for whom a support obligation exists.

~~(3)--The--department may not charge the applicant a fee as compensation for services rendered in establishment of or enforcement of support obligations. However, the--department may--charge--a--fee--to--the person from whom the support is being collected. This fee must be in addition to the support payment. The department shall by rule--establish--reasonable fees--commensurate--with--the--cost--of--enforcement support services to be paid by the person from whom the--support--is being--collected.--When payments are scheduled to be paid on an installment basis, a portion of the collection--fee--owed to--the--department--shall be added to each payment.--If the person from whom the support--is--being--collected--makes--a payment--in--an amount that is less than the support payment plus the collection fee for that payment, the department may deduct--a--percentage--of--the--total--sum--collected--which represents---the---department's--standard--proportion.---The department may, upon a showing of necessity, waive or--defer any such fee."~~

Section 16. Standardized fee schedule. (1) The department shall by rule establish a standardized schedule

of fees for the recovery of administrative costs and expenses of child support enforcement. The fees may be recovered from an obligor if the obligor's failure or refusal to support a child makes it necessary for the department to provide child support enforcement services under this part. The fees must be commensurate with costs or an average of the expenditures related to specific or routine activities.

(2) In an action to establish paternity or to establish or enforce a child support obligation, whether in district court or by administrative process, the department must be awarded costs in the amount established in the fee schedule as part of any judgment, decree, or order in which the department is the prevailing party.

(3) Fees awarded under this section are in the nature of child support and are collectible in the same manner as a support order. The fee award may be collected separately or added to and collected with any balance due on a support debt.

(4) Collection of a fee award may not reduce any current child support payment due the obligee.

(5) Arrearage amounts collected that include a fee must be allocated as follows:

(a) If the obligee is a recipient of public assistance, the amount must be allocated first to satisfy

the fee.

(b) If the obligee is not a recipient of public assistance, the first 10% of each amount collected must be allocated to satisfy the fee.

(6) The department, upon a showing of necessity, may waive or defer any fee assessed under this section.

Section 17. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

Section 18. Codification instruction. [Sections 3 and 16] are intended to be codified as an integral part of Title 40, chapter 5, part 2, and the provisions of Title 40, chapter 5, part 2, apply to [sections 3 and 16]. [Section 5] is intended to be codified as an integral part of Title 40, chapter 5, part 4, and the provisions of Title 40, chapter 5, part 4, apply to [section 5].

Section 19. Applicability. [This act] applies to child support orders and modifications of child support orders issued after September 30, 1989.

-End-

APPENDIX B

WEL 0004/01

DRAFT 8-9-88

_____ BILL NO. _____

INTRODUCED BY _____

BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE ON WELFARE

A BILL FOR AN ACT ENTITLED: "AN ACT DIRECTING THE AMENDMENT OF RULE 46.10.403, ADMINISTRATIVE RULES OF MONTANA, TO RAISE THE INCOME AND NEED STANDARDS FOR THE AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM TO ALLOW RECIPIENTS TO HAVE INCREASED INCOME AND RETAIN ELIGIBILITY FOR PUBLIC ASSISTANCE BENEFITS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

B1

WHEREAS, Rule 46.10.403, Administrative Rules of Montana, provides standards for the determination of need and the amount of assistance to be paid under the Aid to Families with Dependent Children (AFDC) Program; and

WHEREAS, this rule establishes a standard of need equal to 56% of the federal poverty level; and

WHEREAS, this rule also establishes a gross income standard that is set at the poverty level; and

WHEREAS, recipients will become ineligible for AFDC if their income exceeds the gross income standard or standard of need; and

WHEREAS, because these standards are low, they discourage AFDC recipients from seeking full-time work for fear of losing AFDC and Medicaid benefits; and

WHEREAS, recipients of AFDC should be provided incentives to work.

THEREFORE, the Legislature of the State of Montana directs the amendment of Rule 46.10.403, Administrative Rules of Montana, to allow AFDC recipients to earn increased income and maintain eligibility for public assistance.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. The Department of Social and Rehabilitation Services shall amend Rule 46.10.403, Administrative Rules of Montana, to read:

"46.10.403 TABLE OF ASSISTANCE STANDARDS (1) The tables of assistance standards contain the income and grant limits for assistance units according to the number of persons, the type of living arrangement, and whether shelter is or is not included.

(2) Monthly income as defined in ARM 46.10.505 is tested against the gross monthly income standard and, after specified exclusions and disregards, the net monthly income standard. These tests are applied using income reasonably expected to be received in the benefit month. However, if income is reported or discovered after the month of receipt, this income must be accounted for by applying the monthly income tests retroactively in the second month after

receipt. Monthly income is to be compared to the full standard for the size assistance unit even though the grant may only cover part of the month. If this monthly income exceeds the standard, the assistance unit is not eligible for any part of the benefit month. The assistance unit may be further ineligible as provided in ARM 46.10.403(3).

(a) Gross monthly income standards to be used when adults are included in the assistance unit are compared with gross monthly income defined in ARM 46.10.505.

GROSS MONTHLY INCOME STANDARDS TO BE USED WHEN ADULTS ARE INCLUDED IN THE ASSISTANCE UNIT

No. Of Persons in Household	With Shelter Obligation Per Month	Without Shelter Obligation Per Month
1	$ ~~474~~ 653	$ ~~170~~ 235
2	~~640~~ 883	~~276~~ 379
3	~~803~~ 1,106	~~379~~ 524
4	~~968~~ 1,336	~~481~~ 662
5	~~1,132~~ 1,563	~~577~~ 796
6	~~1,295~~ 1,789	~~668~~ 921
7	~~1,462~~ 2,017	~~755~~ 1,042
8	~~1,624~~ 2,242	~~838~~ 1,156
9	~~1,782~~ 2,350	~~916~~ 1,264
10	~~1,776~~ 2,451	~~998~~ 1,365

11	~~1,844~~ 2,547	~~1,058~~ 1,462
12	~~1,909~~ 2,633	~~1,123~~ 1,550
13	~~1,970~~ 2,720	~~1,184~~ 1,634
14	~~2,026~~ 2,797	~~1,240~~ 1,711
15	~~2,078~~ 2,868	~~1,291~~ 1,782
16	~~2,124~~ 2,932	~~1,338~~ 1,846

(b) Gross monthly income standards to be used when no adults are included in the assistance unit are compared with gross monthly income defined in ARM 46.10.505.

GROSS MONTHLY INCOME STANDARDS TO BE USED WHEN NO ADULTS ARE INCLUDED IN THE ASSISTANCE UNIT

No. of Children in Household	With Shelter Obligation Per Month	Without Shelter Obligation Per Month
1	$ ~~165~~ 228	$ ~~63~~ 87
2	~~331~~ 457	~~168~~ 231
3	~~494~~ 681	~~272~~ 376
4	~~657~~ 907	~~374~~ 514
5	~~823~~ 1,134	~~470~~ 648
6	~~988~~ 1,363	~~561~~ 773
7	~~1,151~~ 1,587	~~648~~ 894
8	~~1,228~~ 1,696	~~731~~ 1,008
9	~~1,302~~ 1,798	~~808~~ 1,116
10	~~1,371~~ 1,893	~~882~~ 1,217

11	~~1,436~~ 1,903	~~951~~ 1,314
12	~~1,499~~ 2,068	~~1,018~~ 1,402
13	~~1,552~~ 2,142	~~1,077~~ 1,486
14	~~1,604~~ 2,214	~~1,132~~ 1,563
15	~~1,650~~ 2,279	~~1,184~~ 1,634
16	~~1,696~~ 2,340	~~1,230~~ 1,698

(c) Net monthly income standards to be used when adults are included in the assistance unit are compared with net monthly income defined in ARM 46.10.505.

NET MONTHLY INCOME STANDARDS TO BE USED WHEN ADULTS ARE INCLUDED IN THE ASSISTANCE UNIT

No. of Persons in Household	With Shelter Obligation Per Month	Without Shelter Obligation Per Month
1	$ ~~256~~ 353	$ ~~92~~ 127
2	~~346~~ 477	~~149~~ 205
3	~~434~~ 598	~~205~~ 283
4	~~523~~ 722	~~260~~ 358
5	~~612~~ 845	~~312~~ 430
6	~~700~~ 967	~~361~~ 498
7	~~790~~ 1,090	~~408~~ 563
8	~~878~~ 1,212	~~453~~ 625
9	~~920~~ 1,270	~~495~~ 683
10	~~960~~ 1,325	~~535~~ 738

11	~~997~~ 1,377	~~572~~ 790
12	~~1,032~~ 1,423	~~607~~ 838
13	~~1,065~~ 1,470	~~640~~ 883
14	~~1,095~~ 1,512	~~670~~ 925
15	~~1,123~~ 1,550	~~690~~ 963
16	~~1,140~~ 1,585	~~723~~ 998

(d) Net monthly income standards to be used when no adults are included in the assistance unit are compared with net monthly income defined in ARM 46.10.505.

NET MONTHLY INCOME STANDARDS TO BE USED WHEN NO ADULTS ARE INCLUDED IN THE ASSISTANCE UNIT

No. of Children in Household	With Shelter Obligation Per Month	Without Shelter Obligation Per Month
1	$ ~~89~~ 123	$ ~~34~~ 47
2	~~179~~ 247	~~91~~ 125
3	~~267~~ 368	~~147~~ 203
4	~~355~~ 490	~~202~~ 278
5	~~445~~ 613	~~254~~ 350
6	~~534~~ 737	~~303~~ 418
7	~~622~~ 858	~~350~~ 483
8	~~664~~ 917	~~395~~ 545
9	~~704~~ 972	~~437~~ 603
10	~~741~~ 1,023	~~477~~ 658

11	~~776~~ 1,072	~~514~~ 710
12	~~818~~ 1,118	~~558~~ 758
13	~~839~~ 1,158	~~582~~ 803
14	~~867~~ 1,197	~~612~~ 845
15	~~892~~ 1,232	~~648~~ 883
16	~~917~~ 1,265	~~665~~ 918

(3) When net monthly income exceeds the net monthly income standard because of receipt of a non-recurring lump sum payment, the assistance unit is ineligible for the number of months equal to the total amount of the net monthly income divided by the net monthly income standard. The remainder which results from this computation will be treated as if it is income received and available in the first month follow the period of ineligibility.

(a) If net monthly income in excess of the net monthly income standard is discovered after the month of receipt, the ineligibility period may begin as late as the corresponding payment month. The period of ineligibility will be recalculated with respect to the remaining months in any one or more of the following cases:

(i) an event occurs which, had the assistance unit been receiving aid, would have changed the amount of aid payable; or

(ii) the assistance unit incurs, becomes responsible for, and pays medical expenses in a month of ineligibility;

or

(iii) the funds are unavailable for reasons beyond the control of the assistance unit.

(b) If net monthly income in excess of the net monthly income standard is caused by a regular and periodic extra paycheck from a recurring income source, assistance will be suspended rather than terminated when ineligibility would be for only one benefit month.

(4) An assistance unit receives the full amount of the benefit standard less net monthly income which is prorated if eligibility is for less than a full month. From this amount recoveries will be taken for prior overpayments.

(a) Benefit standards to be used when adults are included in the assistance unit are compared with net monthly income defined in ARM 46.10.505.

BENEFIT STANDARDS TO BE USED WHEN ADULTS ARE INCLUDED IN THE ASSISTANCE UNIT

No. Of Persons in Household	With Shelter Obligation Per Month	With Shelter Obligation Per Day	Without Shelter Obligation Per Month	Without Shelter Obligation Per Day
1	$212	$ 7.07	$ 76	$ 2.53
2	286	9.53	123	4.10
3	359	11.97	170	5.67
4	433	14.43	215	7.17

5	507	16.90	258	8.60
6	580	19.33	299	9.97
7	654	21.80	338	11.27
8	727	24.23	375	12.50
9	762	25.40	410	13.67
10	795	26.50	443	14.77
11	826	27.53	474	15.80
12	854	28.47	503	16.77
13	882	29.40	530	17.67
14	907	30.23	555	18.50
15	930	31.00	578	19.27
16	951	31.70	599	19.97

(b) Benefit standards to be used when no adults are included in the assistance unit are compared with net monthly income defined in ARM 46.10.505.

BENEFIT STANDARDS TO BE USED WHEN NO ADULTS ARE INCLUDED IN THE ASSISTANCE UNIT

No. of Children in Hsld.	With Shelter Oblig./ Month	With Shelter Oblig./ Day	Without Shelter Oblig./ Month	Without Shelter Oblig./ Day
1	$ 74	$ 2.47	$ 28	$ .93
2	148	4.93	75	2.50
3	221	7.37	122	4.07
4	294	9.80	167	5.57

5	368	12.27	210	7.00
6	442	14.73	251	8.37
7	515	17.17	290	9.67
8	550	18.33	327	10.90
9	583	19.43	362	12.07
10	614	20.47	395	13.17
11	643	21.43	426	14.20
12	671	22.37	455	15.17
13	695	23.17	482	16.07
14	718	23.93	507	16.90
15	739	24.63	530	17.67
16	759	25.30	551	18.37

(5) In accordance with 45 CFR 233.20, the state has applied a ratable reduction in establishing the level of benefits so that the amount of assistance provided under ARM 46.10.403(4) equals 60% of the standard of need."

Section 2. Effective date -- applicability. [This act] is effective on passage and approval and applies to all eligibility and grant determinations beginning July 1, 1989.

-End-

WEL 0010

*** Bill No. *****

Introduced By **********

By Request of the Joint Interim

Subcommittee on Welfare

A Bill for an Act Entitled: "An Act to provide legislative direction and oversight of programs administered under the federal Job Training Partnership Act in order to ensure that welfare recipients obtain the employment and training needed to avoid long-term dependency on public assistance; to require that job training programs serve welfare recipients as a priority, target group; to mandate performance standards; to coordinate job training programs with programs and services of public assistance agencies; to make the state job training plan subject to legislative review; and providing an immediate effective date and an applicability date.

BE IT ENACTED. . . . . .

Section 1. Purpose and intent. (1) The purpose of [this act] is to provide legislative direction and oversight of programs in Montana administered under the federal Job Training Partnership Act.

(2) The intent of the legislature in establishing [this act] is to ensure that welfare recipients obtain the

employment and training needed to avoid long-term dependency on public assistance.

Section 2. Definitions. For the purposes of [this act], unless the context requires otherwise, the following definitions apply:

(1) "Job Training Partnership Act" means the federal Job Training Partnership Act of 1982, Public Law 97-300 (29 USC 1501 et. seq.), as amended.

(2) "Job training plan" means the plan for providing services and training in a service delivery area, as required in [section 6].

(3) "Program" means the program created by [section 3] to implement the Job Training Partnership Act.

(4) "Program year" means the fiscal year beginning on July 1 of the year for which an appropriation is made for the program established under [this act], as provided in section 161 of the Job Training Partnership Act (29 USC 1571).

(5) "Service delivery area" means an area designated as provided in section 101 of the Job Training Partnership Act (29 USC 1511).

(6) "Service provider" means a person, agency, or organization that has a contract to provide services and training under the program.

(7) "Welfare recipient" means a person who receives

general relief assistance or aid to families with dependent children.

Section 3. Establishment and administration of program. (1) There is a program to implement the Job Training Partnership Act. The program must provide employment, training, supportive and related services for economically disadvantaged individuals and other persons who have serious barriers to employment and are in special need of services to obtain productive employment.

(2) The department of labor and industry shall administer the program in accordance with a job training plan that meets the requirements of [section 6] and sections 103 through 105 of the Job Training Partnership Act (29 USC 1513 through 1515).

Section 4. State Job Training Council. (1) There is a Montana job training council. The council shall perform the functions of the state job training coordinating council provided under section 122 of the Job Training Partnership Act (29 USC 1532).

(2) The Governor shall appoint the members of the council [who shall serve in that capacity subject to approval by the senate].

Section 5. Private industry councils. (1) There is a private industry council in each service delivery area. Each council must be established as provided in section 102

of the Job Training Partnership Act (29 USC 1512).

(2) Each private industry council shall carry out the duties and responsibilities provided in section 103 of the Job Training Partnership Act (29 USC 1513).

Section 6. Job training plan -- requirements. (1) No funds appropriated for the program for any fiscal year may be provided to any service delivery area except pursuant to an approved job training plan that has been prepared in accordance with [this act] and sections 103 through 105 of the Job Training Partnership Act (29 USC 1513 through 1515).

(2) A job training plan must contain all information required by [this act] and the Job Training Partnership Act, including but not limited to:

(a) priorities for providing services to eligible groups within the service delivery area, including priority for services to welfare recipients as required in [section 7];

(b) procedures for identifying and selecting participants and for determining and verifying their eligibility;

(c) the type of services and training to be provided, including the estimated cost per participant;

(d) criteria for evaluating the content and quality of services and training;

(e) performance standards as required under

[section 8];

[(f) procedures for selecting service providers, as provided in [section 10] and section 107 of the Job Training Partnership Act (29 USC 1517);]

(g) a plan for coordinating services and training with programs and services of public assistance agencies as required under [section 11];

(h) an estimated budget for 2 program years that conforms to [section 12] and section 108 of the Job Training Partnership Act (29 USC 1518);

(i) a procedure for preparing and submitting to the governor [and the legislature] an annual report that describes the activities conducted during the program year, the characteristics of program participants, and the extent to which activities exceeded or failed to meet the performance standards adopted under the plan; and

(j) procedures for ensuring that programs operated under the plan meet the requirements of the Job Training Partnership Act and comply with the legislative purpose and intent of [this act];

Section 7. State policy -- priority for services. (1) It is the policy of this state that programs administered under the Job Training Partnership Act must emphasize services to welfare recipients to help them obtain the employment and training needed to avoid long-term

dependency on public assistance.

(2) Consistent with the policy in subsection (1), each job training plan must provide assurance that welfare recipients will be served as a priority, target group.

Section 8. Performance standards. Each job training plan must provide standards, consistent with section 106 of the Job Training Partnership Act (29 USC 1516), to measure the performance and effectiveness of the program in the service delivery area. Such standards must include an objective, quantifiable measure of the extent to which participation in the program increases the employment and earnings of welfare recipients and decreases their dependency on public assistance.

Section 9. Monitoring and evaluation of programs. (1) In order to determine whether performance standards are met, the department of labor and industry shall monitor and evaluate the program in each service delivery area on the basis of appropriate factors that must include the following:

(a) placement of welfare recipients in unsubsidized employment;

(b) retention of welfare recipients in unsubsidized employment;

(c) the increase in earnings, including hourly wages, of welfare recipients due to placement in unsubsidized

employment; and

(d) reduction in the number of individuals and families receiving cash welfare payments and the amount of reductions in welfare payments.

(2) In monitoring and evaluating the performance of programs, the department of labor and industry shall determine reasons for high and low levels of performance, administrative efficiencies, and program coordination. The department shall also determine the appropriate allocation of funds under section 202(b)(3) of the Job Training Partnership Act (29 USC 1602(b)(3)) for incentive grants to service providers that exceed performance standards.

[Section 10. Selection of providers. (1) Each job training plan must contain a procedure for selecting service providers that takes into primary consideration:

(a) the effectiveness of the agency or organization in delivering comparable or related services as those to be provided under the job training plan; and

(b) past performance as a service provider in programs administered under the Job Training Partnership Act.

(2) No division, bureau, or unit of the department of labor and industry may be selected as a service provider unless:

(a) proper consideration has been given to community-based organizations as service providers as required under

section 107 of the Job Training Partnership Act (29 USC 1517);

(b) it is demonstrated that there are no alternative agencies or organizations capable of providing more effective services or training; and

(c) the department establishes a separate management information and accounting system for the division, bureau, or unit selected as a service provider.]

Section 11. Coordination requirements. Pursuant to the provisions of section 121 of the Job Training Partnership Act (29 USC 1531) and [section 201 of the federal Family Support Act of 1988], programs administered under the Job Training Partnership Act must be coordinated with:

(1) programs operated under [WEL 0009 and the federal Family Support Act of 1988]; and

(2) programs and services of public assistance agencies, including the program established under 53-3-304.

Section 12. Limitation on costs. (1) Not more than 15% of the funds available to a service delivery area for any fiscal year for programs under Title II-A of the Job Training Partnership Act may be spent for the cost of administration. For purposes of this section, the cost of administration includes:

(a) the cost of activities of the department of labor

and industry in its capacity as the administrative entity for the program; and

(b) costs of a service provider that are not directly related to training and participant support.

(2) Costs of program support, such as counseling, that are directly related to the provision of education or training, and any additional costs that are attributable to the development of training programs under section 204(28) of the Job Training Partnership Act (29 USC 1604(28)) are not part of the cost of administration.

Section 13. Review and approval of plan. (1) By January 15 of each odd-numbered year, the governor shall submit the proposed job training plan for the next 2 program years to the president of the senate and the speaker of the house of representatives who shall refer the plan to a proper standing committee in each house of the legislature for review, comment, and appropriate action.

(2) The final job training plan must be approved, published, and submitted to the governor not later than 80 days before the first of the 2 program years. The governor shall approve or disapprove the plan as provided in section 105 of the Job Training Partnership Act (29 USC 1515).

Section 14. Severability. (Standard language, see Bill Drafting Manual, section 4-21.)

Section 15. Modification of plan. Any job training

plan approved by the governor prior to [the effective date of this act] that is subject to the provisions of [this act] must be modified, as provided in section 104 of the Job Training Partnership Act (29 USC 1514), to conform to the requirements of [this act].

Section 16. Effective date -- applicability. [Sections 1 through 12], [sections 14 and 15], and this section are effective on passage and approval and apply to the job training plan for the 2 program years beginning July 1, 1989.

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